

By

NABERS

H B. No. 103

A BILL TO BE ENTITLED

AN ACT

amending Title 1 of the Family Code as follows: amending Section 1.01, relating to the persons who may acquire a marriage license; amending Section 1.02, relating to application for a marriage license; amending Subsection (b), Section 1.03, relating to the content of the marriage license application; amending Section 1.05, relating to application for a marriage license without a personal appearance before the clerk; amending Section 1.06, relating to the execution of the marriage license application; amending Section 1.07, relating to the issuance of a marriage license; amending Subchapter C, Chapter 1, relating to age requirements and parental or other consent for marriage; amending Section 1.82, relating to the ceremony; amending Section 1.92, relating to the declaration and registration of informal marriage; amending Chapter 1 by adding Sections 1.93, 1.94, and 1.95, relating to the issuance of declarations of informal marriages, violations by county clerks, and the application of penalties; amending Section 2.41, relating to marriages that are voidable and subject to annulment by the court sitting without a jury; amending Section 3.08, relating to defenses to a suit for divorce; amending Section 3.21, relating to domicile and residence requirements for divorce suits; amending Section 3.22, relating to the residency of a person absent on public service; amending Section 3.23, relating to the domiciliary and residency status

1 of certain military personnel; amending Section 3.24, relating  
2 to suit by a nonresident spouse; amending Section 3.25, providing  
3 for a suit to declare a marriage void; amending Section 3.52,  
4 relating to pleadings; amending Section 3.53, relating to a suit  
5 to declare a marriage void; amending Section 3.54, relating to  
6 the requirement and availability of counseling; amending Section  
7 3.56, relating to a suit to declare a marriage void; amending  
8 Section 3.58, relating to a suit to declare a marriage void;  
9 amending Section 3.64, relating to change of name and removing  
10 the requirement that a divorce or annulment decree must be based  
11 on full and satisfactory evidence; amending Section 3.65, relating  
12 to a suit to declare a marriage void; amending Section 5.03,  
13 relating to recordation of a schedule of separate property and  
14 the effect of recordation; amending Subsections (L) and (c),  
15 Section 5.22, relating to the management, control, and disposition  
16 of community property; amending Section 5.24, relating to the  
17 protection of third persons; amending Section 5.25, relating to  
18 management, control, and disposition of certain community property  
19 in certain unusual circumstances; amending Section 5.26, relating  
20 to management, control, and disposition of certain community  
21 property in case of a spouse missing on public service; amending  
22 Chapter 5 by adding a Section 5.27, relating to cumulative  
23 remedies; amending Subsection (e), Section 5.41, and Subsection  
24 (d), Section 5.42, relating to recordation of agreements and  
25 constructive notice of these agreements; amending Subsection (b),  
26 Section 5.83, providing for the appointment of an attorney for  
27 the suit; amending Chapter 5 by adding a Section 5.831, relating

1 to certain homestead rights in the case of a missing spouse;  
2 amending Section 5.85, relating to certain homestead rights under  
3 unusual circumstances; amending Section 5.86, relating to  
4 cumulative rights and remedies; amending Section 5.87, as added,  
5 relating to a community homestead when a spouse is missing on  
6 public service; <sup>and</sup> repealing Sections 2.46 and 3.66, Family Code;  
7 and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 Section 1. Section 1.01, Family Code, is amended to read  
10 as follows:

11 <sup>Sec. 1.01.</sup> ~~Sec. 1.01.~~ MARRIAGE LICENSE. A man and a woman ~~[Persons]~~  
12 desiring to enter into a ceremonial marriage shall obtain a  
13 marriage license from the county clerk of any county of this  
14 state."

15 Sec. 2. Section 1.02, Family Code, is amended to read as  
16 follows:

17 "Sec. 1.02. APPLICATION FOR LICENSE. Except as otherwise  
18 provided by Section 1.05 of this code, persons ~~[Persons]~~ applying  
19 for a license shall:

20 "(1) appear together or separately before the county clerk;

21 "(2) submit for each applicant:

22 "(A) proof of identity and age as prescribed by Section  
23 1.04 of this code;

24 "(B) a medical examination certificate or an exemption  
25 order as prescribed by Subchapter B of this chapter; and,

26 "[~~(C) --if-applicable, the county judge's order prescribed~~  
27 ~~by Section 1.05 of this code, and]~~

1           "(C) ~~(4)~~ if required, the documents establishing  
2 parental consent, or a court order, as prescribed by Subchapter  
3 C of this chapter;

4           "(3) provide the information for which spaces are provided  
5 in the application for a marriage license; and,

6           "(4) take the oath printed on the application and sign the  
7 application before the county clerk."

8           Sec. 3. Subsection (b), Section 1.03, Family Code, as  
9 amended, is amended to read as follows:

10          "(b) The application form shall contain:

11           "(1) a heading entitled 'Application for Marriage  
12 License, \_\_\_\_\_ County, Texas';

13           "(2) spaces for each applicant's full name (including  
14 the woman's maiden surname), address, social security number, if  
15 any, date of birth, and place of birth (including city, county,  
16 and state) ~~[7-and-race]~~;

17           "(3) a space for indicating the document tendered by  
18 each applicant as proof of identity and age;

19           ~~[(4) spaces for indicating whether each applicant has  
20 been divorced, and if so, whether the applicant has been divorced  
21 during the six-month period preceding the date of the application]~~

22           "(4) printed boxes for the applicant to check 'true'  
23 or 'false' in response to the following statement: 'I am not  
24 presently married.';

25           "(5) printed boxes for each applicant to check 'true'  
26 or 'false' in response to the following statement: 'The other  
27 applicant is not related to me as:

1                   "(A) an ancestor or descendant, by blood or  
2 adoption;

3                   "(B) a brother or sister, of the whole or half  
4 blood or by adoption; or

5                   "(C) a parent's brother or sister of the whole or half  
6 blood.';

7                   ~~[(5)--a printed oath reading:--I SOLEMNLY SWEAR (OR~~  
8 ~~AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS~~  
9 ~~CORRECT, THAT I AM NOT PRESENTLY MARRIED, AND THAT I AM NOT RELATED~~  
10 ~~TO THE OTHER APPLICANT WITHIN THE DEGREES PROHIBITED BY LAW.]~~

11                   "(6) a printed oath reading: 'I SOLEMNLY SWEAR (OR  
12 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS  
13 CORRECT.';

14                   "(7) [(6)] spaces immediately below the printed oath  
15 for the applicants' signatures;

16                   ~~[(7)--the jurate of the county clerk.]~~

17                   "(8) a certificate of the county clerk that the  
18 applicants made the oath and the date and place that it was made  
19 (or that the applicant did not appear personally but the  
20 prerequisites for the license have been fulfilled as prescribed  
21 by Section 1.05 of this code);

22                   "(9) [(8)] spaces for indicating the date of the  
23 marriage and the county in which it is performed; and

24                   "(10) [(9)] a space for the address to which the  
25 applicants desire the executed license to be mailed."

26                   Sec. 5. Section 1.05, Family Code, is amended to read as  
27 follows:

1       "Sec. 1.05. ABSENT APPLICANT. (a) If only one of the  
2 applicants is able to appear personally before the county clerk  
3 to apply for a marriage license, any adult person or the other  
4 applicant may apply on behalf of the absent applicant.

5       " (b) The person applying on behalf of an absent applicant  
6 shall present to the clerk:

7               " (1) the affidavit of the absent applicant as prescribed  
8 by Subsection (c) of this section;

9               " (2) proof of the identity and age of the absent  
10 applicant as provided by Section 1.04 of this code;

11              " (3) a medical examination certificate or an exemption  
12 order for the absent applicant as prescribed by Subchapter B of  
13 this chapter; and

14              " (4) if required, the documents establishing parental  
15 consent, or a court order, for the absent applicant as prescribed  
16 by Subchapter C of this chapter.

17       " (c) The affidavit of an absent applicant must include:

18              " (1) the absent applicant's full name (including the  
19 maiden surname, if applicable), address, date of birth, place of  
20 birth (including city, county, and state), citizenship, and social  
21 security number, if any;

22              " (2) a declaration that the absent applicant is not  
23 presently married (unless to the other applicant and they wish  
24 to marry again);

25              " (3) a declaration that the other applicant is not  
26 related to the absent applicant as:

27              " (A) an ancestor or descendant, by blood or

1 adoption;

2 "(B) a brother or sister, of the whole or half  
3 blood or by adoption; or

4 "(C) a parent's brother or sister of the whole  
5 or half blood;

6 "(4) a declaration that the absent applicant desires  
7 to marry, and the name, age, and address of the person to whom  
8 the absent applicant desires to be married;

9 "(5) the approximate date on which the marriage is to  
10 occur;

11 "(6) the reason the absent applicant is unable to  
12 appear personally before the county clerk for the issuance of the  
13 license; and

14 "(7) if the absent applicant will be unable to attend  
15 the ceremony, the appointment of any adult, except the other  
16 applicant, to act as proxy for the purpose of participating in  
17 the ceremony. [Any-information-pertaining-to-an-applicant, other  
18 than-the-applicant's-name, may-be-omitted-from-the-application,  
19 and-any-formality-required-by-Subchapters-A, B, and D-of-this-  
20 chapter-may-be-waived-on-the-county-judge's-written-order, issued  
21 for-good-cause-shown, and-submitted-to-the-county-clerk-at-the  
22 time-the-application-is-made.] "

23 Sec. 5. Section 1.06, Family Code, is amended to read as  
24 follows:

25 "Sec. 1.06. EXECUTION OF APPLICATION. (a) The county clerk  
26 shall:

27 "(1) determine that all necessary information (other

1 than the date of the marriage ceremony, the county in which it  
2 is conducted, and the name of the person who performs the ceremony)  
3 is entered in the application and that all necessary documents  
4 are submitted to him;

5 "(2) administer the oath to each applicant appearing  
6 before the clerk;

7 "(3) have each applicant appearing before the clerk  
8 sign the application in his presence; and

9 "(4) execute his certificate on the application.

10 "(b) A person appearing before the clerk on behalf of an  
11 absent applicant is not required to take the oath on behalf of  
12 the absent applicant."

13 Sec. 6. Section 1.07, Family Code, is amended to read as  
14 follows:

15 "Sec. 1.07. ISSUANCE OF LICENSE. (a) The county clerk may  
16 not issue a license to the applicants if:

17 "(1) either applicant fails to provide information as  
18 required by Sections 1.02 and 1.05 of the code;

19 "(2) either applicant fails to submit proof of age and  
20 identity;

21 "(3) ~~the male applicant is under 16 years of age or~~  
22 ~~the female applicant is under 14 years of age;~~

23 "(4) either applicant fails to comply with the  
24 requirements of Subchapter B of this chapter; or

25 "(5) either applicant checks 'false' in response to  
26 a statement in the application, except as provided in Subsection  
27 (c) of this section, or fails to make a required declaration in



1 an affidavit required of an absent applicant.

2       "(b) If an applicant checks 'false' in response to the  
3 statement 'I am not presently married,' the county clerk shall  
4 inquire as to whether or not the applicant is presently married  
5 to the other applicant. If the applicant states that he is  
6 presently married to the other applicant, the county clerk shall  
7 record that statement on the license prior to the administration  
8 of the oath. The county clerk may not refuse to issue a license  
9 on the ground that the applicants are already married to each  
10 other.

11       "(c) [(a)] On the proper execution of the application, the  
12 clerk shall prepare the license. On the reverse side of the  
13 license he shall enter the names of the licensees and, for each  
14 of them, the date of the medical examination or the fact that an  
15 exemption was obtained, and the name of the person appointed to  
16 act as proxy for an absent applicant, if any.

17       ~~"[(b)--The county clerk shall not issue the license to the~~  
18 ~~applicants if he knows any fact which would make the marriage~~  
19 ~~void or voidable under this code.~~

20       ~~"(e)--If it is revealed that either applicant has been~~  
21 ~~divorced during the six-month period preceding the date of the~~  
22 ~~application, the county clerk shall not issue the license unless~~  
23 ~~it is shown that the subsequent marriage within the six-month~~  
24 ~~period is permitted under Section 3.66 of this code.] "~~

25       Sec. 7. Subchapter C, Chapter 1, Family Code, is amended  
26 to read as follows:

27               "SUBCHAPTER C. UNDERAGE APPLICANTS

*Exhibit 2*

"~~Sec. 1.51.~~ AGE REQUIREMENTS: GENERAL RULES. (a) A male under 16 years of age may not marry. A female under 14 years of age may not marry.

"(b) Except with parental consent as prescribed by Section 1.52 of this code or with a court order as prescribed by Section 1.53 of this code, the county clerk shall not issue a marriage license if either ~~[the-male]~~ applicant is under 18 ~~[19]~~ years of age ~~[or-if-the-female-applicant-is-under-18-years-of-age]~~.

"~~Sec. 1.52.~~ UNDERAGE APPLICANT: PARENTAL CONSENT. (a) If the male applicant is 16 years of age or older but under 18 ~~[19]~~ years of age, or if the female applicant is 14 years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as prescribed by this section.

"(b) Parental consent must be evidenced by a written declaration on a form supplied by the county clerk in which the person consents to the marriage and swears that he or she is a parent (when there is no judicially designated managing conservator or guardian of the applicant's person) or a judicially designated managing conservator or guardian (whether an individual, authorized agency, or court) of the applicant's person ~~[natural-guardian-of-the-person-(when-there-is-no-judicially-designated-custodian-or-guardian-of-the-person-of-the-applicant)-an-actual-custodian-of-the-person-(when-there-is-no-natural-guardian-of-the-person-of-judicially-designated-custodian-or-guardian-of-the-person-of-the-applicant)-or-a-judicially-designated-custodian-or-guardian-of-the-person-(whether-an-individual-authorised-agency-or-court)]~~

1 ~~of-the-applicant~~].

2 "(c) Except as otherwise provided by this section, consent  
3 must be acknowledged before the county clerk at the time the  
4 application is made for the marriage license.

5 "(d) If the person giving parental consent [~~consenting-~~  
6 ~~parent-or-guardian~~] resides in another state [~~or-territory-of-the~~  
7 ~~United-States~~], the consent may be acknowledged before an officer  
8 authorized to issue marriage licenses in that state [~~or-territory~~].

9 "(e) If the person giving parental consent [~~consenting-~~  
10 ~~parent-or-guardian~~] is unable [~~to-be-present~~] because of illness  
11 or incapacity to comply with the provisions of Subsection (c) or  
12 (d) of this section, the consent may be acknowledged before any  
13 officer authorized to take acknowledgments; but it must be  
14 accompanied by a physician's affidavit stating that the person  
15 giving parental consent [~~parent-or-guardian~~] is unable to be  
16 present because of illness or incapacity.

17 Sec. 1.53. UNDERAGE APPLICANT: COURT ORDER. (a) A male  
18 who is 16 years of age or older but under 18 [19] years of age,  
19 or a female who is 14 years of age or older but under 18 years  
20 of age, may petition in his own name in a district court for an  
21 order granting permission to marry.

22 "(b) The petition must be filed in the county where a parent  
23 resides if a managing conservator or a guardian of the person has  
24 not been appointed. If a managing conservator or a guardian of  
25 the person has been appointed, the petition must be filed in the  
26 county where the managing conservator or the guardian of the  
27 person resides. If no person authorized to consent to marriage

1 for the child resides in this state, the petition must be filed  
2 in the county where the child lives.

3 "(c) The petition shall include a statement of the reasons  
4 the child desires to marry, whether each parent is living or dead,  
5 the name and residence address of each living parent, and whether  
6 or not a managing conservator or a guardian of the person has  
7 been appointed for the child.

8 "(d) Process shall be served as in other civil cases on  
9 each living parent of the child, or if a managing conservator or  
10 a guardian of the person has been appointed, on the managing  
11 conservator or guardian of the person.

12 "(e) The court shall appoint a guardian ad litem to represent  
13 the child in the proceeding and to speak for or against the  
14 petition in the manner he believes to be in the best interest of  
15 the child. The court shall prescribe a fee to be paid by the  
16 child for the services of the guardian ad litem; and the fee shall  
17 be collected as are other costs of the proceeding.

18 "(f) If, after a hearing, the court believes marriage to  
19 be in the best interest of the child, it shall make an order  
20 granting the child permission to marry."

21 Sec. 8. Section 1.82, Family Code, is amended to read as  
22 follows:

23 "Sec. 1.82. CEREMONY. (a) On receiving [possession-of-  
24 the] an unexpired marriage license, any authorized person may  
25 conduct the marriage ceremony.

26 "(b) A person unable to appear for the ceremony may assent  
27 to marriage by the appearance of a proxy appointed in the affidavit

1 prescribed by Section 1.05 of this code."

2       Sec. 9. Section 1.92, Family Code, as amended, is amended  
3 to read as follows:

4       "Sec. 1.92. DECLARATION AND REGISTRATION. (a) A declaration  
5 of informal marriage shall be executed on a form prescribed by  
6 the Bureau of Vital Statistics of the State Department of Health  
7 and provided by the county clerk. Each party to the declaration  
8 shall provide the information required [~~for which spaces are~~  
9 ~~provided~~] in the form.

10       "(b) The declaration form shall contain:

11               "(1) a heading entitled 'Declaration and Registration  
12 of Informal Marriage, \_\_\_\_\_ County, Texas';

13               "(2) spaces for each party's full name (including the  
14 woman's maiden surname), address, date of birth, place of birth  
15 (including city, county, and state), and social security number,  
16 if any [~~see~~];

17               "(3) a space for indicating the type of document  
18 tendered by each party as proof of age and identity;

19               "(4) printed boxes for each party to check 'true' or  
20 'false' in response to the following statement: 'The other party  
21 is not related to me as:

22                       "(A) an ancestor or descendant, by blood or  
23 adoption;

24                       "(B) a brother or sister, of the whole or half  
25 blood or by adoption; or

26                       "(C) a parent's brother or sister of the whole  
27 or half blood.';

1           [43]--a-printed-declaration-reading:--We-the-  
2 undersigned-declare-that-we-are-married-to-each-other-by-virtue  
3 of-the-following-facts:--On-or-about-----[date]-----we-agreed  
4 to-be-married, and-after-that-date-we-lived-together-in-this-state  
5 as-husband-and-wife-and-in-this-state-represented-to-others-that  
6 we-were-married. 17]

7           "(5) [44] a printed declaration and oath reading:  
8 'I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED  
9 TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT  
10 (DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED  
11 TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO  
12 OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE  
13 OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS  
14 DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN  
15 IS CORRECT.' [1-I-SOLEMNNLY-SWEAR-(OR-AFFIRM)-THAT-THE-ABOVE-  
16 DECLARATION-IS-TRUE, THAT-THE-INFORMATION-I-HAVE-GIVEN-HEREIN-IS  
17 CORRECT, THAT-I-AM-NOT-PRESENTLY-MARRIED-TO-ANY-OTHER-PERSON, AND  
18 THAT-I-AM-NOT-RELATED-TO-THE-OTHER-PARTY-TO-THE-DECLARATION-WITHIN  
19 THE-DEGREES-PROHIBITED-BY-LAW. 1];

20           "(6) [45] spaces immediately below the printed  
21 declaration and oath for the parties' signatures; and

22           "(7) [46] a certificate of the county clerk that the  
23 parties [applicant] made the declaration and oath and the place  
24 and date it was made.

25           "(c) If either party [was-underage-as-provided-in-section  
26 2.41-of-this-code-at-the-time-of-the-marriage-and-if-either-  
27 party] is [still] underage at the time of filing a declaration,

1 the declaration shall have attached an acknowledged consent  
2 executed by a parent ~~[the-parents]~~ of each underage person."

3 ~~[(d)--The-county-clerk-shall:~~

4 ~~(1)--determine-that-all-necessary-information-is-entered~~  
5 ~~on-the-form;~~

6 ~~(2)--administer-the-oath-to-each-party;~~

7 ~~(3)--have-each-party-sign-the-declaration-in-his-~~  
8 ~~presence;-and~~

9 ~~(4)--execute-his-certificate-on-the-declaration;~~

10 ~~(e)--The-county-clerk-shall-record-the-declaration;-deliver~~  
11 ~~the-original-of-the-declaration-to-the-parties;-and-transmit-a~~  
12 ~~copy-to-the-Bureau-of-Vital-Statistics;~~

13 ~~[(f)--A-declaration-executed-under-this-section-is-prima-facie~~  
14 ~~evidence-of-the-marriage.]~~

15 Sec. 10. Chapter 1, Family Code, as amended, is amended by  
16 adding Sections 1.93, 1.94, and 1.95 to read as follows:

17 "Sec. 1.93. PROOF OF IDENTITY AND AGE. The county clerk  
18 shall require proof of the identity and age of each party to the  
19 declaration to be established by a certified copy of the party's  
20 birth certificate or by some certificate, license, or document  
21 issued by this state or another state, the United States, or a  
22 foreign government.

23 "Sec. 1.94. RECORDING OF DECLARATION. (a) The county clerk  
24 shall:

25 "(1) determine that all necessary information is entered  
26 in the declaration form and that all necessary documents are  
27 submitted to him;

1           "(2) administer the oath to each party to the  
2 declaration;

3           "(3) have each party sign the declaration in his  
4 presence; and

5           "(4) execute his certificate to the declaration.

6           "(b) The county clerk may not certify or record the  
7 declaration if:

8           "(1) either party fails to supply any information, or  
9 to provide any document, required by this subchapter;

10 *Original*   "(2) a male party is under 16 years of age or a female  
11 party is under 14 years of age; or

12           "(3) either party checks 'false' in response to the  
13 statement of relationship to the other party.

14           "(c) On execution of the declaration, the county clerk shall  
15 record the declaration and all documents submitted with the  
16 declaration or note a summary of them on the declaration form,  
17 deliver the original of the declaration to the parties, and send  
18 a copy to the Bureau of Vital Statistics.

19           "(d) A declaration recorded as provided in this section is  
20 prima facie evidence of the marriage of the parties.

21           "Sec. 1.95. VIOLATION BY COUNTY CLERK. A county clerk or  
22 a deputy county clerk who violates any provision of this subchapter  
23 is guilty of a misdemeanor and on conviction is punishable by a  
24 fine of not less than \$200 nor more than \$500."

25           Sec. 11. Section 2.41, Family Code, as amended, is amended  
26 to read as follows:

27           "Sec. 2.41. UNDERAGE. (a) The licensed or informal marriage



8-20-79 (9)

1 of a male under 16 years of age or a female under 14 years of age  
2 is voidable and subject to annulment on the petition of a next  
3 friend for the benefit of the underage party or on the petition  
4 of the parent or the judicially designated managing conservator  
5 or guardian (whether an individual, authorized agency, or court)  
6 of the person of the underage party. A suit filed under this  
7 subsection by a next friend must be brought within 90 days after  
8 the 14th birthday of a female party or the 16th birthday of a  
9 male party, or it is barred. A suit by a parent, managing  
10 conservator, or guardian of the person may be brought at any time  
11 before the party is 14 years of age in the case of a female or  
12 16 years of age in the case of a male, but thereafter must be  
13 brought within 90 days after the petitioner knew or should have  
14 known of the marriage, or it is barred. However, in no case may  
15 a suit by a parent, managing conservator, or guardian of the  
16 person be brought under this subsection after the underage person  
17 has reached 18 years of age.

18 <sup>8-20-79</sup> (b) ~~(a)~~ The licensed or informal marriage of a male 16  
19 years of age or older but under 18 [19] years of age, or a female  
20 14 years of age or older but under 18 years of age, without  
21 parental consent as provided in Section [Sections] 1.52 or [and]  
22 1.92 of this code or without a court order as provided by Section  
23 1.53 of this code, is voidable and subject to annulment [at-the  
24 discretion-of-the-court] on the petition of a next friend for the  
25 benefit of the underage party, or on the petition of the parent  
26 or the judicially designated managing conservator or guardian  
27 (whether an individual, authorized agency or court) of the person

1 of the underage party. A suit filed under, of a next friend for  
2 the benefit of the underage party, or on the petition of the  
3 parent or the judicially designated managing conservator or  
4 guardian (whether an individual, authorized agency or court) of  
5 the person of the underage party. A suit filed under this  
6 subsection by a next friend must be brought within 90 days after  
7 the date of the marriage, or it is barred. A suit by a parent,  
8 managing conservator, or guardian of the person must be brought  
9 within 90 days after the date the petitioner knew or should have  
10 known of the marriage, or it is barred. However, in no case may  
11 a suit by a parent, managing conservator, or guardian of the  
12 person be brought under this subsection after the underage person  
13 has reached 18 years of age. [However, a suit may not be brought  
14 under this subsection more than 90 days after the date of the  
15 marriage.]

16 " (c) [b] In any suit under this section the marriage is  
17 voidable at the discretion of the court sitting without a jury.  
18 In exercising its discretion [under this section], the court shall  
19 consider all pertinent facts concerning the welfare of the [and  
20 best-interests-of-both] parties to the marriage, including whether  
21 or not the female is pregnant."

22 Sec. 12. Section 3.08, Family Code, is amended to read as  
23 follows:

24 "Sec. 3.08. DEFENSES. (a) The defense of recrimination  
25 is abolished.

26 " (b) Condonation [7-12-proved] is a [valid] defense only  
27 if the court finds [it-is-also-proved] that there is a reasonable

1 expectation of reconciliation.

2 "(c) The defense of adultery is abolished."

3 Sec. 13. Section 3.21, Family Code, is amended to read as  
4 follows:

5 "Sec. 3.21. RESIDENCE--GENERAL RULE. No suit for divorce  
6 may ~~[shall]~~ be maintained unless at the time suit is filed the  
7 petitioner or the respondent has been a domiciliary of this state  
8 for the preceding six-month ~~[12-month]~~ period and a resident of  
9 the county in which the suit is filed for the preceding ~~six-month~~  
10 period."

11 Sec. 14. Section 3.22, Family Code, is amended to read as  
12 follows:

13 "Sec. 3.22. ABSENCE ON PUBLIC SERVICE. ~~[RESIDENT-WITH-OUT~~  
14 ~~OF-STATE-MILITARY-SERVICE.]~~ For the purpose of Section 3.21 of  
15 this code, time spent by a Texas domiciliary in the service of  
16 the armed forces or other service of the United States or of this  
17 state outside this state or the county of residence of the  
18 domiciliary is considered residence in the state and county. [A  
19 ~~resident-who-has-been-absent-from-this-state-for-more-than-six~~  
20 ~~months-in-the-military,-naval,-or-other-service-of-the-United-~~  
21 ~~States-or-of-this-state-may-sue-for-divorce-in-the-county-where~~  
22 ~~he-resided-before-entering-the-service.]~~"

23 Sec. 15. Section 3.23, Family Code, is amended to read as  
24 follows:

25 "Sec. 3.23. MILITARY PERSONNEL NOT PREVIOUSLY RESIDENTS.  
26 A person not previously a resident of this state who is serving  
27 in the armed forces of the United States and has been stationed

1 at one or more military installations in this state for at least  
2 the last six [12] months and at one or more military installations  
3 in a county of this state for at least the last ~~six months~~ is  
4 considered to have been a domiciliary of this state and a resident  
5 of the county for those periods for the purpose of bringing suit  
6 for divorce or annulment or to declare a marriage void."

7 Sec. 16. Section 3.24, Family Code, is amended to read as  
8 follows:

9 "Sec. 3.24. SUIT BY NONRESIDENT SPOUSE. If one spouse has  
10 been a domiciliary of this state for at least the last six [12]  
11 months, a spouse domiciled in another state or nation  
12 [~~jurisdiction~~] may sue for divorce in the county where the  
13 domiciled spouse is domiciled at the time the petition is filed."

14 Sec. 17. Section 3.25, Family Code, is amended to read as  
15 follows:

16 "Sec. 3.25. SUIT FOR ANNULMENT [SUIT] OR TO DECLARE A  
17 MARRIAGE VOID. (a) A suit for annulment of a marriage or to  
18 declare a marriage void may be maintained in this state only if  
19 the parties were married in this state or if either party is  
20 domiciled in this state.

21 "(b) A suit for annulment of a marriage or to declare a  
22 marriage void is a suit in rem, affecting the status of the parties  
23 to the marriage. Process shall be served as in a suit for  
24 divorce."

25 Sec. 18. Section 3.52, Family Code, is amended to read as  
26 follows:

27 "Sec. 3.52. PLEADINGS. [~~PLEADINGS-STATEMENT-OF-FACTS~~]

1 Pleadings of the parties in a suit for divorce or annulment or  
2 to declare a marriage void shall contain allegations of the grounds  
3 relied on substantially in the language of the statute and without  
4 a detailed statement of evidentiary facts. Allegations of grounds  
5 for relief, matters of defense, or facts relied on for temporary  
6 relief stated in short and plain terms are not subject to special  
7 exceptions because of form or sufficiency. Except for allegations  
8 relied on for temporary relief, all allegations of evidentiary  
9 facts shall be stricken from the pleadings on the motion of any  
10 party to the suit or by the court on its own motion."

11 ~~[(a)--Any pleading praying for a divorce or annulment shall~~  
12 ~~allege the grounds relied on as nearly as possible in the language~~  
13 ~~of the statute and without a detailed statement of the facts.~~

14 ~~(b)--The opposing party shall be furnished on request a~~  
15 ~~separate statement of the facts relied on to support a decree.~~  
16 ~~Each fact alleged in the statement shall be considered as denied~~  
17 ~~by the opposing party unless expressly admitted.~~

18 ~~(c)--A copy of the statement shall be furnished to the judge~~  
19 ~~but shall not become a part of the record of the case.--However,~~  
20 ~~if the court's judgment is appealed on any ground relating to an~~  
21 ~~allegation in the statement, then the statement shall be included~~  
22 ~~in the record on appeal.]~~

23 Sec. 19. Section 3.53, Family Code, is amended to read as  
24 follows:

25 "Sec. 3.53. ANSWER. In a suit for divorce or annulment or  
26 to declare a marriage void, the respondent [defendant] need not  
27 answer upon oath, and the petition shall not be taken as confessed

1 for want of an answer."

2 Sec. 20. Section 3.54, Family Code, is amended to read as  
3 follows:

4 "Sec. 3.54. COUNSELING. (a) On the filing of a petition  
5 for divorce, the clerk shall furnish an availability of counseling  
6 notice to the attorney filing the petition. Except in a suit in  
7 which the respondent is cited by publication, the attorney shall  
8 forward the notice to both parties to the suit and shall certify  
9 to the court that he has complied with the provisions of this  
10 subsection.

11 "(b) The availability of counseling notice shall be printed  
12 on the stationery of the clerk and shall state:

13 "In a divorce suit the court is authorized by law to require  
14 both parties to consult with a marriage counselor or other person  
15 appointed by the court. The counselor's function is to report  
16 to the court whether or not, in the opinion of the counselor,  
17 there exists a reasonable expectation of reconciliation and, if  
18 so, whether further counseling would be beneficial. If you believe  
19 that counseling would be beneficial to you or to the court, you  
20 may ask your attorney to request that the court order consultation  
21 with a counselor."

22 "(c) [~~a~~] After a petition for divorce is filed, the court  
23 may, in its discretion, direct the parties to counsel with a  
24 person or persons named by the court, who shall submit a written  
25 report to the court before the hearing on the petition.

26 "(d) [~~b~~] In his report, the counselor shall give only  
27 his opinion as to whether there exists a reasonable expectation

1 of reconciliation of the parties, and if so, whether further  
2 counseling would be beneficial. The sole purpose of the report  
3 is to aid the court in determining whether the suit for divorce  
4 should be continued pending further counseling, and the report  
5 shall not be admitted as evidence in the suit. Copies of the  
6 report shall be furnished to the parties.

7       "(c) [~~e~~]" If the court is of the opinion that there exists  
8 a reasonable expectation of the parties' reconciliation, the court  
9 may by written order continue the proceedings and direct the  
10 parties to any person or persons named by the court for further  
11 counseling for a period of time fixed by the court not to exceed  
12 60 days, subject to any terms, conditions, and limitations the  
13 court deems desirable. The court shall consider the circumstances  
14 of the parties, including the needs of the parties' family, and  
15 the availability of counseling services, in making its order.  
16 At the expiration of the period of time specified by the court,  
17 the counselor to whom the parties were directed shall report to  
18 the court whether the parties have complied with the court's  
19 order. Thereafter, the court shall proceed as in divorce suits  
20 generally.

21       "(f) [~~e~~]" No person who has counseled parties to a suit  
22 for divorce under this section is competent to testify in any  
23 action involving the parties or their children. The files,  
24 records, and other work-products of the counselor are privileged  
25 and confidential for all purposes and may not be admitted as  
26 evidence in any action involving the parties or their children.

27       "(g) [~~e~~]" The expenses of counseling may be taxed as costs

1 against either or both parties."

2 Sec. 21. Section 3.56, Family Code, is amended to read as  
3 follows:

4 "Sec. 3.56. INVENTORY AND APPRAISEMENT. At any time during  
5 a suit for divorce or annulment or to declare a marriage void,  
6 a party [either-spouse] may, for the preservation of [his-or-her]  
7 rights, require an inventory and appraisal of all property in  
8 the possession of another party [the-other-spouse], and may obtain  
9 an injunction restraining another party [the-other-spouse] from  
10 disposing of the property in any manner."

11 Sec. 22. Section 3.58, Family Code, is amended to read as  
12 follows:

13 "Sec. 3.58. TEMPORARY ORDERS. After a petition for divorce  
14 or annulment or to declare a marriage void is filed, the court  
15 or judge may make temporary orders respecting the property and  
16 parties as deemed necessary and equitable."

17 Sec. 23. Section 3.64, Family Code, is amended to read as  
18 follows:

19 "Sec. 3.64. CHANGE OF NAME. In a decree for divorce or  
20 annulment, the court for good cause shown may change the name of  
21 either party specifically requesting the change. A change of  
22 name does not release a person from any liability incurred in a  
23 previous name or defeat any right which the person held in a  
24 previous name. [DECREE,--The-court-shall-base-its-decree-for-  
25 divorce-or-annulment-on-full-and-satisfactory-evidence.]"

26 Sec. 24. Section 3.65, <sup>3.66; are</sup> Family Code, is amended to read as  
27 follows:



1       "Sec. 3.65. COSTS. In a suit for divorce or annulment  
2 ~~[suit]~~ or to declare a marriage void, the court may award costs  
3 to any ~~[either]~~ party as it deems reasonable. However, costs may  
4 not be adjudged against a party against whom a divorce is granted  
5 under Section 3.07 of this code. (10)

6       Sec. 25. Section 5.03, Family Code, is amended to read as  
7 follows:

8       "Sec. 5.03. RECORDATION OF SEPARATE PROPERTY. A subscribed  
9 and acknowledged schedule of a spouse's separate property may be  
10 recorded in the deed records of the county in which the parties,  
11 or one of them, reside and in the county or counties in which the  
12 real property is located. As to real property, a schedule of a  
13 spouse's separate property is not constructive notice to ~~[void~~  
14 ~~as-against]~~ a good faith purchaser for value or a creditor without  
15 actual notice unless the instrument is acknowledged and recorded  
16 in the deed records of the county in which the real property is  
17 located."

18       Sec. 26. Subsections (b) and (c), Section 5.22, Family Code,  
19 are amended to read as follows:

20       "(b) If community property subject to the sole management,  
21 control, and disposition of one spouse is mixed or combined with  
22 community property subject to the sole management, control, and  
23 disposition of the other spouse, then the mixed or combined  
24 community property is subject to the joint management, control,  
25 and disposition of the spouses, unless the spouses provide  
26 otherwise by power of attorney in writing or other agreement ~~[in~~  
27 ~~writing]~~.

1       "(c) Except as provided in Subsection (a) of this section,  
2       the community property is subject to the joint management, control,  
3       and disposition of the husband and wife, unless the spouses provide  
4       otherwise by power of attorney in writing or other agreement [~~in~~  
5       ~~writing~~]."

6       Sec. 27. Section 5.24, Family Code, is amended to read as  
7       follows:

8       "Sec. 5.24. PROTECTION OF THIRD PERSONS. [PRESUMPTION]

9       (a) During marriage, property is presumed to be subject to the  
10      sole management, control, and disposition of a spouse if it is  
11      held in his or her name, as shown by muniment, contract, deposit  
12      of funds, or other evidence of ownership, or if it is in his or  
13      her possession and is not subject to such evidence of ownership.

14      (b) A third person dealing with a spouse is entitled to  
15      rely (as against the other spouse or anyone claiming from that  
16      spouse) on that spouse's authority to deal with the property if:

17           (1) the property is presumed to be subject to the  
18      sole management, control, and disposition of the spouse; and

19           (2) the person dealing with the spouse:

20               (A) is not a party to a fraud upon the other  
21      spouse or another person; and

22               (B) does not have actual or constructive notice  
23      of the spouse's lack of authority."

24      [~~(c)--As-to-personal-property7-recording-of-a-schedule-of~~  
25      ~~separate-property-under-Section-5.03-of-this-code7-or-an-order~~  
26      ~~under-Section-5.25-of-this-code7-or-a-marital-property-agreement~~  
27      ~~under-Section-5.41-of-this-code7-or-a-partition-or-exchange-~~

1 agreement-under-Section-5.42-of-this-code, shall-not-be-deemed  
2 constructive-notice-of-the-schedule, order, marital-property-  
3 agreement, or-partition-or-exchange-agreement-for-the-purposes  
4 of-Subsection-(b)(2)(B)-of-this-section. --As-to-real-property,  
5 recording-of-a-schedule-of-separate-property-under-Section-5.03  
6 of-this-code, or-an-order-under-Section-5.25-of-this-code, or-a  
7 marital-property-agreement-under-Section-5.41-of-this-code, or  
8 a-partition-or-exchange-agreement-under-Section-5.42-of-this-code,  
9 in-the-deed-records-of-the-county-in-which-the-real-property-is  
10 located-is-constructive-notice-for-the-purposes-of-Subsection-  
11 (b)(2)(B)-of-this-section.]

12 Sec. 28. Section 5.25, Family Code, is amended to read as  
13 follows:

14 "Sec. 5.25. UNUSUAL CIRCUMSTANCES. (a) If (1) a spouse  
15 is unable to manage, control, or dispose of the community property  
16 subject to his or her sole or joint management, control, and  
17 disposition, (2) a spouse disappears and his or her location  
18 remains unknown to the other spouse, except under circumstances  
19 in which Section 5.26 of this code is applicable, (3) a spouse  
20 permanently abandons the other, or (4) the spouses are permanently  
21 separated, then not less than 60 days thereafter the capable  
22 spouse, or the remaining spouse, or the abandoned spouse, or  
23 either spouse in the case of permanent separation, may file a  
24 sworn petition stating the facts that make it desirable for the  
25 petitioning spouse to manage, control, and dispose of community  
26 property (described or defined in the petition) that would  
27 otherwise be subject to the sole or joint management, control,

1 and disposition of the other.

2       "(b) The petition shall be filed in a district court of the  
3 county in which the petitioner [~~petitioning-spouse~~] resided at  
4 the time the incapacity or separation began, or the abandonment  
5 or disappearance occurred. If both spouses are nonresidents of  
6 the state at that time, the petition shall be filed in the district  
7 court of any county in which any part of the described or defined  
8 community property is located.

9       "(c) The court may appoint an attorney for the suit for the  
10 respondent and shall award a reasonable fee for the attorney's  
11 services as a part of the costs of the suit.

12       "(d) [~~e~~] A notice stating that the petition has been  
13 filed and specifying the date of the hearing, accompanied by a  
14 copy of the petition, shall be issued and served on the attorney  
15 for the suit, if one is appointed, or, if an attorney is not  
16 appointed, on the respondent [~~spouse~~] as in other cases.

17       "(e) [~~d~~] If the residence of the respondent is unknown,  
18 notice shall be published in a newspaper of general circulation  
19 published in the county in which the petition was filed. If that  
20 county has no newspaper of general circulation, [~~then~~] notice  
21 shall be published in a newspaper of general circulation in an  
22 adjacent county or in the nearest county in which a newspaper of  
23 general circulation is published. The notice shall be published  
24 once a week for two consecutive weeks before the hearing, but the  
25 first publication shall not be less than 20 days before the date  
26 set for the hearing.

27       "(f) [~~e~~] After hearing the evidence, the court, on terms

1 it deems just and equitable, shall enter an order describing or  
2 defining the community property at issue that will be subject to  
3 the management, control, and disposition of each spouse during  
4 marriage. [~~(h)--In-the-exercise-of-its-equity-powers,-the~~] The  
5 court may impose any conditions and restrictions it deems necessary  
6 to protect the rights of the respondent, [~~other-spouse,-The-court~~  
7 ~~may~~] require a bond conditioned on the faithful administration  
8 of the property, [~~proceeds~~] and [~~or-may~~] require payment of all  
9 or a portion of the proceeds of sale of the property to the  
10 registry of the court, to be disbursed in accordance with the  
11 court's further directions.

12 " (g) [~~(f)~~] The jurisdiction of the court is continuing,  
13 and on motion of either spouse, after notice has been given in  
14 the same manner that notice is given under Subsection (d) or (e)  
15 [~~(e)-or-(d)~~] of this section, the court shall amend or vacate the  
16 original order if:

- 17 " (1) the incapable spouse's capacity is restored;  
18 " (2) the spouse who disappeared reappears; or  
19 " (3) the abandonment or permanent separation ends.

20 " (h) [~~(g)~~] An order authorized by Subsection (f) [~~(e)~~] of  
21 this section affecting real property is not constructive notice  
22 to [~~void-as-against~~] a good faith purchaser for value or [~~against~~]  
23 a creditor without actual notice unless the order is recorded in  
24 the deed records of the county in which the real property is  
25 located."

26 [~~(i)--This-section-is-cumulative-of-the-rights,-powers,-and~~  
27 ~~remedies-otherwise-afforded-the-spouses-by-law.~~]

1       Sec. 29. Section 5.26, Family Code, as added, is amended  
2 to read as follows:

3       "Sec. 5.26. SPOUSE MISSING ON PUBLIC SERVICE. [~~CIRCUMSTANCES~~  
4 ~~OF PERSON MISSING IN ACTION OR PRISONER OF WAR.~~] (a) If a spouse  
5 is reported by an executive department of the United States [~~the~~  
6 ~~United States Department of Defense~~] to be a prisoner of war or  
7 missing on the public service of the United States [~~in action~~],  
8 then not less than six months thereafter the spouse of the prisoner  
9 of war or missing person [~~person missing in action~~] may file a  
10 sworn petition stating the facts that make it desirable for the  
11 petitioner [~~petitioning spouse~~] to manage, control, and dispose  
12 of the community property (described or defined in the petition)  
13 that would otherwise be subject to the sole or joint management,  
14 control, and disposition of the other.

15       "(b) The petition shall be filed in the district court of  
16 the county in which the petitioner [~~petitioning spouse~~] resided  
17 at the time the [~~United States Department of Defense~~] report was  
18 made. If both spouses were [~~are~~] nonresidents of the state at  
19 that time, the petition shall be filed in the district court of  
20 any county in which any part of the described or defined property  
21 is located.

22       "(c) The court shall appoint an attorney for the suit for  
23 the respondent [~~ad litem for the prisoner of war or person missing~~  
24 ~~in action~~] and shall allow him a reasonable fee for his services  
25 to be taxed as a part of the costs.

26       "(d) A notice stating that the petition has been filed and  
27 specifying the date of the hearing, accompanied by a copy of the

1 petition, shall be issued and served on the attorney ~~[ad-item]~~  
2 representing the respondent ~~[spouse]~~ as in other cases.

3 "(e) After hearing the evidence, the court, on terms it  
4 deems just and equitable, shall enter an order describing or  
5 defining the community property at issue that will be subject to  
6 the management, control, and disposition of each spouse during  
7 marriage. ~~[(h)--In-the-exercise-of-its-equity-powers,-the]~~ The  
8 court may impose any conditions and restrictions it deems necessary  
9 to protect the rights of the respondent, ~~[other-spouse-]~~ ~~[The~~  
10 ~~court-may]~~ require a bond conditioned on the faithful  
11 administration of the property, and ~~[proceeds-or-may]~~ require  
12 payment of all or a portion of the proceeds of sale of the property  
13 to the registry of the court, to be disbursed in accordance with  
14 the court's further directions.

15 "(f) The jurisdiction of the court is continuing, and on  
16 motion of either spouse, after notice stating that the motion has  
17 been filed and specifying the date of the hearing, accompanied  
18 by a copy of the motion, has been issued and served on the  
19 respondent ~~[spouse]~~ as in other cases, the court shall amend or  
20 vacate the original order if the spouse who was a prisoner of war  
21 or missing ~~[in-action]~~ returns.

22 "(g) An order authorized by Subsection (e) of this section  
23 affecting real property is not constructive notice to ~~[void-as~~  
24 ~~against]~~ a good faith purchaser for value or ~~[against]~~ a creditor  
25 without actual notice unless the order is recorded in the deed  
26 records of the county in which the real property is located."

27 ~~[(i)--This-section-is-cumulative-of-the-rights,-powers,-and~~

1 ~~remedies otherwise afforded the spouses by law.]~~

2       Sec. 30. Chapter 5, Family Code, is amended by adding Section  
3 5.27 to read as follows:

4       "Sec. 5.27. REMEDIES CUMULATIVE. The remedies provided in  
5 Sections 5.25 and 5.26 of this code are cumulative of other rights,  
6 powers, and remedies afforded spouses by law."

7       Sec. 31. Subsection (e), Section 5.41, Family Code, is  
8 amended to read as follows:

9       "(e) A marital property agreement may be recorded in the  
10 deed records of the county in which the parties, or one of them,  
11 reside and in the county or counties in which the real property  
12 affected or to be affected is located. As to real property, a  
13 marital property agreement is not constructive notice to [void  
14 ~~as-against~~] a good faith purchaser for value or a creditor without  
15 actual notice unless the instrument is acknowledged and recorded  
16 in the county in which the real property is located."

17       Sec. 32. Subsection (d), Section 5.42, Family Code, is  
18 amended to read as follows:

19       "(d) A partition or exchange agreement may be recorded in  
20 the deed records of the county in which the parties, or one of  
21 them, reside and in the county or counties in which the real  
22 property affected is located. As to real property, a partition  
23 or exchange agreement is not constructive notice to [void-as-  
24 ~~against~~] a good faith purchaser for value or a creditor without  
25 actual notice unless the instrument is acknowledged and recorded  
26 in the county in which the real property is located."

27       Sec. 33. Subsection (b), Section 5.83, Family Code, is



1 amended to read as follows:

2 " (b) The petition shall be filed in a district court of the  
3 county in which any portion of the property is located. The court  
4 may appoint an attorney for the suit for the respondent and shall  
5 award a reasonable fee for his services as a part of the costs  
6 of the suit. Notice shall be issued and served in the manner  
7 provided in Subsection (d) or (e) [~~e~~-~~or~~-~~d~~] of Section 5.25  
8 of this code."

9 Sec. 34. Chapter 5, Family Code, as amended, is amended by  
10 adding a Section 5.831 to read as follows:

11 "Sec. 5.831. SEPARATE HOMESTEAD: SPOUSE MISSING ON PUBLIC  
12 SERVICE; SALE WITHOUT JOINDER. (a) If the homestead is the  
13 separate property of a spouse and the other spouse is reported  
14 by an executive department of the United States to be a prisoner  
15 of war or missing on public service of the United States, not  
16 less than six months thereafter the owner may file a sworn petition  
17 giving a description of the property and stating the facts that  
18 make it desirable for the owner to sell, convey, or encumber the  
19 homestead without the joinder of the other spouse.

20 "(b) The petition shall be filed in a district court of the  
21 county in which any portion of the property is located. The court  
22 shall appoint an attorney for the suit for the respondent and  
23 shall award a reasonable fee for the attorney's service as a part  
24 of costs of the suit. Notice shall be issued and served in the  
25 manner provided in Subsection (d) of Section 5.26 of this code.

26 "(c) After hearing the evidence, the court shall enter an  
27 order it deems just and equitable with respect to sale, conveyance,

1 or encumbrance of the homestead."

2       Sec. 35. Section 5.85, Family Code, is amended to read as  
3 follows:

4       "Sec. 5.85. COMMUNITY HOMESTEAD: UNUSUAL CIRCUMSTANCES;  
5 SALE WITHOUT JOINDER. (a) If the homestead is the community  
6 property of the spouses and if (1) a spouse is incompetent (whether  
7 judicially declared incompetent or not), (2) a spouse disappears  
8 and his or her location remains unknown to the other spouse, (3)  
9 a spouse permanently abandons the homestead and the other spouse,  
10 or (4) a spouse permanently abandons the homestead and the spouses  
11 are permanently separated, [then] not less than 60 days thereafter  
12 the competent spouse, the remaining spouse, the abandoned spouse,  
13 or the spouse who has not abandoned the homestead in a case of  
14 permanent separation, who desires to sell, convey, or encumber  
15 the community homestead of the spouses, may file a sworn petition  
16 giving a description of the property and stating the facts that  
17 make it desirable for the petitioner to sell, convey, or encumber  
18 the homestead without the joinder of the other spouse.

19       "(b) The petition shall be filed in a district court of the  
20 county in which any portion of the property is located. The court  
21 may appoint an attorney for the suit for the respondent and shall  
22 award a reasonable fee for the attorney's service as a part of  
23 costs of the suit. Notice shall be issued and served in the  
24 manner provided in Subsection (d) or (e) [~~(e)-or-(d)~~] of Section  
25 5.25 of this code.

26       "(c) After hearing the evidence, the court, [~~shall-enter~~  
27 ~~an-order-granting-relief-if-it-appears-necessary-or-advisable~~]

1 ~~and on terms the court deems advisable.]~~ on terms it deems just  
2 and equitable, shall enter an order describing or defining the  
3 community property at issue that will be subject to the management,  
4 control, and disposition of each spouse during marriage. ~~[(d)~~  
5 ~~In the exercise of its equity powers, the]~~ The court may impose  
6 any conditions and restrictions it deems necessary to protect the  
7 rights of the respondent, ~~[either spouse,--The court may]~~ require  
8 a bond conditioned on the faithful administration of the property,  
9 and ~~[proceeds or may]~~ require payment of all or a portion of the  
10 proceeds of sale of the property to the registry of the court,  
11 to be disbursed in accordance with the court's further directions."

12 Sec. 36. Section 5.86, Family Code, is amended to read as  
13 follows:

14 "Sec. 5.86. REMEDIES AND POWERS CUMULATIVE. The remedies  
15 provided by Sections 5.83, 5.831, 5.85, and 5.87 ~~[and 5.85]~~ of  
16 this code, and the powers of a spouse under Sections 5.82 and  
17 5.84 of this code, are cumulative of the other rights, powers,  
18 and remedies ~~[otherwise]~~ afforded the spouses by law."

19 Sec. 37. Section 5.87, Family Code, as amended, is amended  
20 to read as follows:

21 "Sec. 5.87. COMMUNITY HOMESTEAD; SPOUSE MISSING ON PUBLIC  
22 SERVICE; [CIRCUMSTANCE OF PERSON MISSING IN ACTION OR PRISONER  
23 OF WAR,] SALE WITHOUT JOINDER. (a) If the homestead is the  
24 community property of the spouses and if a spouse is reported by  
25 an executive department of the United States ~~[the United States~~  
26 ~~Department of Defense]~~ to be a prisoner of war or missing on  
27 public service of the United States, ~~[in action then]~~ not less

1 than six months thereafter the spouse of the prisoner of war or  
2 missing person [~~person-missing-in-action~~], who desires to sell,  
3 convey, or encumber the community homestead of the spouses, may  
4 file a sworn petition giving a description of the property and  
5 stating the facts that make it desirable for the petitioning  
6 spouse to sell, convey, or encumber the homestead without the  
7 joinder of the other spouse.

8       "(b) The petition shall be filed in a district court of the  
9 county in which any portion of the property is located. The court  
10 shall appoint an attorney for the suit for the respondent [~~ad-~~  
11 ~~item-for-the-prisoner-of-war-or-person-missing-in-action~~] and  
12 shall award [~~allow-him~~] a reasonable fee for the attorney's service  
13 [~~his-services-to-be-taxed~~] as a part of the costs of the suit.  
14 Notice shall be issued and served in the manner provided in  
15 Subsection (d) of Section 5.26 of this code.

16       "(c) After hearing the evidence, the court shall enter an  
17 order granting relief if it appears necessary or advisable, and  
18 on terms the court deems advisable. The court may impose any  
19 conditions and restrictions it deems necessary to protect the  
20 rights of the respondent, may require a bond conditioned on the  
21 faithful administration of the property, or may require payment  
22 of all or a portion of the proceeds of sale of the property to  
23 the registry of the court to be disbursed in accordance with the  
24 court's further directions.

25       [~~(d)--In-the-exercise-of-its-equity-powers-the-court-may~~  
26 ~~impose-any-conditions-and-restrictions-it-deems-necessary-to-~~  
27 ~~protect-the-rights-of-the-other-spouse--The-court-may-require~~

1 a-bond-conditioned-on-faithful-administration-of-the-proceeds-or  
2 may-require-payment-of-all-or-a-portion-of-the-proceeds-to-the  
3 registry-of-the-court-to-be-disbursed-in-accordance-with-the-  
4 court's-further-directions;

5 {e}--This-section-is-cumulative-of-the-rights-powers-and  
6 remedies-otherwise-afforded-the-spouses-by-law.]

7 ~~Sec. 38. Sections 2.46 and 3.66, Family Code, are repealed.~~

8 Sec. 39. This Act takes effect January 1, 1974.

9 Sec. 40. The importance of this legislation and the crowded  
10 condition of the calendars in both houses create an emergency and  
11 an imperative public necessity that the constitutional rule  
12 requiring bills to be read on three several days in each house  
13 be suspended.

## FORM B

## COMMITTEE REPORT

Date 5-11-73

HONORABLE PRICE DANIEL, JR.

Speaker of the House of Representatives.

Sir:

We, your Committee on Judiciary, to whom was referred HB No. 103, have had the same under consideration and beg to report back with recommendation that it do pass, as amended.

The Committee recommends that this measure be considered for the ~~Local~~ and Consent Calendar.

House sponsor of Senate measure: \_\_\_\_\_

The measure was reported from Committee by the following record vote:

<u>17</u>	ayes
<u>4</u>	nays
<u>1</u>	present, not voting
<u>1</u>	absent

C. DeLoach  
Chairman.

~~This measure proposes new law.~~

BILL ANALYSIS1. BACKGROUND

Title 1 of the Family Code, which codified and revised the existing statutes relating to husband and wife, was adopted by the 61st Legislature and became effective January 1, 1970. The 62nd Legislature then made a few minor changes in 1971. This is the first full scale revision of Title 1 since its adoption in 1969.

2. PURPOSE

To revise Title 1 of the Family Code so that:

1. The county clerk's function will be purely ministerial.
2. The treatment of underage marriages will be improved.
3. The regulation of dissolution of marriages will be altered.
4. The recordation of various types of instruments regulating the separate and community property interests of spouses will be improved.

3. SECTION BY SECTION

Section 1: Amends Sec. 1.01 to require that the applicants for a marriage license be a man and a woman.

Section 2: Amends Sec. 1.02 deleting the requirement therein to submit the county judge's order prescribed under Sec. 1.05 when applying for a license.

Section 3: Amends Sec. 1.03 (b) by deleting the requirement of designation of race and prior marital status on the application as well as deleting the oath which states that the applicant is not presently married and hasn't been for six months. It adds a space to indicate that the applicant is not presently married and is not related to the other party. Also added is a certificate by the county clerk that the applicants made the oath. Also deleted is the requirement for the jurat of the county clerk.

Section 4: Amends Sec. 1.05 by deleting the provision allowing the omission of information on the application only by the written order of a county judge and replacing it with a provision whereby if one applicant is unable to appear in person the other may apply on the behalf of the absent applicant.

Section 5: Amends Sec. 1.06 to allow for execution of the application by the county clerk when one applicant is not present.

Section 6: Amends Sec. 1.07 prescribing the conditions under which the county clerk may not issue the license.

Section 7: Amends Subchapter C to preclude issuance of a license unless any applicant under the age of 18 has a court order or parental consent. Also prescribes the manner in which a parent or guardian may give consent. Also prescribes the manner in which an underage applicant may procure a court order allowing his marriage.

- Section 8: Amends Sec. 1.12 to allow marriage by proxy.
- Section 9: Amends Sec. 1.92 to prescribe the manner in which a declaration of informal marriage shall be executed.
- Section 10: Amends Chapter 1 by adding Sec. 1.93 which requires proof of age when executing a declaration of informal marriage; Sec. 1.94 which requires that the county clerk shall record the declaration of informal marriage; and Sec. 1.95 which prescribes the penalties to which the county clerk will be subject if he violates any provision of Subchapter E.
- Section 11: Amends Sec. 2.41 to prescribe the manner in which a marriage of underage parties may be voided.
- Section 12: Amends Sec. 3.08 to abolish the defense of adultery.
- Section 13: Amends Sec. 3.21 to reduce the residency requirement for divorce from 12 to 6 months and make it applicable to either petitioner or respondent.
- Section 14: Amends Sec. 3.22 to give credit for absence from the state on public service toward the residency requirement.
- Section 15: Amends Sec. 3.23 to require that a serviceman be stationed at base in the state for 6 months in order to comply with the residency requirement.
- Section 16: Amends Sec. 3.24 to allow an out-of-state spouse to sue for divorce in the county where the other spouse has resided for 6 months.
- Section 17: Amends Sec. 3.25 to make it applicable to suits to make marriages void.
- Section 18: Amends Sec. 3.52 to prescribe the requirements for pleadings in a suit for divorce, annulment or to declare a marriage void.
- Section 19: Amends Sec. 3.53 to extend the application of the requirements for an answer to suits to declare a marriage void.
- Section 20: Amends Sec. 3.53 to require a notice of the availability of counseling notice to be furnished to the attorney and that he forward it to both parties of the suit. Also provides that the records of the counselor are privileged and confidential.
- Section 21: Amends Sec. 3.56 to also make available an injunction in suits to declare a marriage void and to make it apply to any party.
- Section 22: Amends Sec. 3.58 to make temporary orders respecting property available also in suits to declare a marriage void.
- Section 23: Amends Sec. 3.64 to allow either party to have their name changed in the decree for divorce or annulment.
- Section 24: Amends Sec. 3.65 to allow costs to be awarded to any party to a divorce, annulment, or suit to declare a marriage void.



- Section 25: Amends Sec. 5.03 to provide that a schedule of separate property is not notice to good faith purchasers unless recorded in the deed records of the county.
- Section 26: Amends Sec. 5.22 (b) and (c) to require that a power of attorney to manage community property subject to the sole management of one spouse which has been mixed with community property be in writing but that other agreements are not.
- Section 27: Amends Sec. 5.24 to delete the language pertaining to the absence of constructive notice under the recording of a schedule of personal property and the existence of constructive notice in relation to real property.
- Section 28: Amends Sec. 5.25 to provide for the appointment of an attorney for the respondent in a suit to obtain management and control of community property subject to his management.
- Section 29: Amends Sec. 5.26 to expand its application to persons missing while on government service.
- Section 30: Amends Chapter 5 by providing that the remedies provided in Sec. 5.25 and 5.26 are cumulative with other rights.
- Section 31: Amends Sec. 5.41 to provide that a marital property agreement as to real property is not constructive notice unless recorded in the county records.
- Section 32: Amends Sec. 5.42 to provide that a partition or exchange agreement as to real property is not constructive notice unless recorded in the county records.
- Section 33: Amends Sec. 5.83 (b) to provide for the appointment of an attorney for the respondent in a suit to sell a homestead without joinder.
- Section 34: Amends Chapter 5 to provide for the sale of a separate homestead without joinder when one spouse is missing on public service.
- Section 35: Amends Sec. 5.85 to provide for the appointment of an attorney for the respondent when one spouse attempts to sell a community homestead without joinder as a result of one spouse not being joined because of unusual circumstances.
- Section 36: Amends Sec. 5.86 to include additional remedies provided by Sec. 5.831, 5.85 and 5.87.
- Section 37: Amends Sec. 5.87 to expand its application to persons missing while on public service.
- Section 38: Repeals Sec. 2.46 which deals with concealed divorces and Sec. 3.66 which prohibits remarriage within 6 months of divorce.
- Section 39: Effective date.
- Section 40: Emergency clause.

SUMMARY OF COMMITTEE ACTION:

The Committee on Judiciary posted notice in accordance with Rule VIII, Section 13, and considered HB No. 103 in a public hearing/~~formal meeting~~ on March 13, 1973. The bill was referred to Sub-committee and reported back favorably to the full committee with amendment(s) on May 4, 1973. The Committee voted on May 9, 1973 by a record vote of 7 ayes and 4 nays, to report the bill back to the House ~~favorably/unfavorably~~ with the recommendation that it do/~~do not~~ pass, as amended.

~~This bill proposes new law by adding~~ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: Nabers

H.B. No. 103

A BILL TO BE ENTITLED

AN ACT

amending Title 1 of the Family Code as follows: amending Section 1.01, relating to the persons who may acquire a marriage license; amending Section 1.02, relating to application for a marriage license; amending Subsection (b), Section 1.03, relating to the content of the marriage license application; amending Section 1.05, relating to application for a marriage license without a personal appearance before the clerk; amending Section 1.06, relating to the execution of the marriage license application; amending Section 1.07, relating to the issuance of a marriage license; amending Subchapter C, Chapter 1, relating to age requirements and parental or other consent for marriage; amending Section 1.82, relating to the ceremony; amending Section 1.92, relating to the declaration and registration of informal marriage; amending Chapter 1 by adding Sections 1.93, 1.94, and 1.95, relating to the issuance of declarations of informal marriages, violations by county clerks, and the application of penalties; amending Section 2.41, relating to marriages that are voidable and subject to annulment by the court sitting without a jury; amending Section 3.08, relating to defenses to a suit for divorce; amending Section 3.21, relating to domicile and residence requirements for divorce suits; amending Section 3.22, relating to the residency of a person absent on public service; amending Section 3.23, relating to the domiciliary and residency status of certain military personnel; amending Section 3.24, relating

1 to suit by a nonresident spouse; amending Section 3.25, providing  
2 for a suit to declare a marriage void; amending Section 3.52,  
3 relating to pleadings; amending Section 3.53, relating to a suit  
4 to declare a marriage void; amending Section 3.54, relating to  
5 the requirement and availability of counseling; amending Section  
6 3.56, relating to a suit to declare a marriage void; amending  
7 Section 3.58, relating to a suit to declare a marriage void;  
8 amending Section 3.64, relating to change of name and removing  
9 the requirement that a divorce or annulment decree must be based  
10 on full and satisfactory evidence; amending Section 3.65, relating  
11 to a suit to declare a marriage void; amending Section 5.03,  
12 relating to recordation of a schedule of separate property and  
13 the effect of recordation; amending Subsections (b) and (c),  
14 Section 5.22, relating to the management, control, and disposition  
15 of community property; amending Section 5.24, relating to the  
16 protection of third persons; amending Section 5.25, relating to  
17 management, control, and disposition of certain community property  
18 in certain unusual circumstances; amending Section 5.26, relating  
19 to management, control, and disposition of certain community  
20 property in case of a spouse missing on public service; amending  
21 Chapter 5 by adding a Section 5.27, relating to cumulative  
22 remedies; amending Subsection (e), Section 5.41, and Subsection  
23 (d), Section 5.42, relating to recordation of agreements and  
24 constructive notice of these agreements; amending Subsection (b),  
25 Section 5.83, providing for the appointment of an attorney for  
26 the suit; amending Chapter 5 by adding a Section 5.831, relating---

1 to certain homestead rights in the case of a missing spouse;  
2 amending Section 5.85, relating to certain homestead rights under  
3 unusual circumstances; amending Section 5.86, relating to  
4 cumulative rights and remedies; amending Section 5.87, as added,  
5 relating to a community homestead when a spouse is missing on  
6 public service; amending Subsection (a), Sec. 2.46, Family Code;  
7 and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 Section 1. Section 1.01, Family Code, is amended to read  
10 as follows:

11 "Sec. 1.01. MARRIAGE LICENSE. A man and a woman ~~[Persons]~~  
12 desiring to enter into a ceremonial marriage shall obtain a  
13 marriage license from the county clerk of any county of this  
14 state. A license may not be issued for the marriage of persons  
15 of the same sex."

16 Sec. 2. Section 1.02, Family Code, is amended to read as  
17 follows:

18 "Sec. 1.02. APPLICATION FOR LICENSE. Except as otherwise  
19 provided by Section 1.05 of this code, persons ~~[Persons]~~ applying  
20 for a license shall:

21 "(1) appear together or separately before the county clerk;

22 "(2) submit for each applicant:

23 "(A) proof of identity and age as prescribed by  
24 Section 1.04 of this code;

25 "(B) a medical examination certificate or an exemption  
26 order as prescribed by Subchapter B of this chapter; and,

1       ~~"[(4)] if applicable, the county judge's order~~  
2       ~~prescribed by Section 1.05 of this code; and]~~

3       "(C)~~[(4)]~~ if required, the documents establishing  
4       parental consent, or a court order, as prescribed by Subchapter  
5       C of this chapter;

6       "(3) provide the information for which spaces are provided  
7       in the application for a marriage license; and,

8       "(4) take the oath printed on the application and sign the  
9       application before the county clerk."

10       Sec. 3, Subsection (b), Section 1.03, Family Code, as  
11       amended, is amended to read as follows:

12       "(b) The application form shall contain:

13            "(1) a heading entitled 'Application for Marriage  
14       License, \_\_\_\_\_ County, Texas';

15            "(2) spaces for each applicant's full name (including  
16       the woman's maiden surname), address, social security number, if  
17       any, date of birth, and place of birth (including city, county,  
18       and state)~~and race~~;

19            "(3) a space for indicating the document tendered  
20       by each applicant as proof of identity and age;

21            "(4) spaces for indicating whether each applicant  
22       has been divorced within the last 30 days~~and if so, whether~~  
23       ~~the applicant has been divorced during the six-month period~~  
24       ~~preceding the date of the application~~;

25            "(5) printed boxes for the applicant to check 'true'  
26       or 'false' in response to the following statement: 'I am not

1 presently married.:

2 "(6) printed boxes for each applicant to check 'true'  
3 or 'false' in response to the following statement: 'The other  
4 applicant is not related to me as:

5 "(A) an ancestor or descendant, by blood or  
6 adoption:

7 "(B) a brother or sister, of the whole or half  
8 blood or by adoption: or

9 "(C) a parent's brother or sister of the whole  
10 of half blood.:

11 ~~"(6) a printed oath reading: 'I SOLEMNLY SWEAR (OR~~

12 ~~AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS~~

13 ~~CORRECT, THAT I AM NOT PRESENTLY MARRIED, AND THAT I AM NOT RELATED~~

14 ~~TO THE OTHER APPLICANT WITHIN THE DEGREES PROHIBITED BY LAW.]~~

15 "(7) a printed oath reading: 'I SOLEMNLY SWEAR (OR  
16 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS  
17 CORRECT.:

18 "(8) [~~6~~] spaces immediately below the printed oath  
19 for the applicants' signatures;

20 ~~"(7) the judge of the county clerk;]~~

21 "(9) a certificate of the county clerk that the  
22 applicants made the oath and the date and place that it was made  
23 (or that the applicant did not appear personally but the  
24 prerequisites for the license have been fulfilled as prescribed  
25 by Section 1.05 of this code);

26 "(10) [~~6~~] spaces for indicating the date of the

1 marriage and the county in which it is performed; and

2 "(11) [~~49~~] a space for the address to which the  
3 applicants desire the executed license to be mailed."

4 Sec. 4. Section 1.05, Family Code, is amended to read as  
5 follows:

6 "Sec. 1.05. ABSENT APPLICANT. (a) If only one of the  
7 applicants is able to appear personally before the county clerk  
8 to apply for a marriage license, any adult person or the other  
9 applicant may apply on behalf of the absent applicant.

10 "(b) The person applying on behalf of an absent applicant  
11 shall present to the clerk:

12 "(1) the affidavit of the absent applicant as  
13 prescribed by Subsection (c) of this section;

14 "(2) proof of the identity and age of the absent  
15 applicant as provided by Section 1.04 of this code;

16 "(3) a medical examination certificate or an exemption  
17 order for the absent applicant as prescribed by Subchapter B of  
18 this chapter; and

19 "(4) if required, the documents establishing parental  
20 consent, or a court order, for the absent applicant as prescribed  
21 by Subchapter C of this chapter.

22 "(c) The affidavit of an absent applicant must include:

23 "(1) the absent applicant's full name (including the  
24 maiden surname, if applicable), address, date of birth, place of  
25 birth (including city, county, and state), citizenship, and social  
26 security number, if any;



1           "(2) a declaration that the absent applicant is not  
2 presently married (unless to the other applicant and they wish  
3 to marry again):

4           "(3) a declaration that the other applicant is not  
5 related to the absent applicant as:

6                   "(A) an ancestor or descendant, by blood or  
7 adoption:

8                   "(B) a brother or sister, of the whole or half  
9 blood or by adoption: or

10                   "(C) a parent's brother or sister of the whole  
11 or half blood:

12           "(4) a declaration that the absent applicant desires  
13 to marry, and the name, age, and address of the person to whom  
14 the absent applicant desires to be married:

15           "(5) the approximate date on which the marriage is  
16 to occur:

17           "(6) the reason the absent applicant is unable to  
18 appear personally before the county clerk for the issuance of the  
19 license: and

20           "(7) if the absent applicant will be unable to attend  
21 the ceremony, the appointment of any adult, except the other  
22 applicant, to act as proxy for the purpose of participating in  
23 the ceremony. [Any information pertaining to an applicant other  
24 than the applicant to whom may be omitted from the application  
25 and any formality required by Subchapters 17-B and 18 of this  
26 chapter may be waived on the county judge's written order, to be

~~for good cause shown, and submitted to the county clerk at the~~  
~~time the application is made.] "~~

Sec. 5. Section 1.06, Family Code, is amended to read as follows:

"Sec. 1.06. EXECUTION OF APPLICATION. (a) The county clerk shall:

"(1) determine that all necessary information (other than the date of the marriage ceremony, the county in which it is conducted, and the name of the person who performs the ceremony) is entered in the application and that all necessary documents are submitted to him;

"(2) administer the oath to each applicant appearing before the clerk;

"(3) have each applicant appearing before the clerk sign the application in his presence; and

"(4) execute his certificate on the application.

"(b) A person appearing before the clerk on behalf of an absent applicant is not required to take the oath on behalf of the absent applicant."

Sec. 6. Section 1.07, Family Code, is amended to read as follows:

"Sec. 1.07. ISSUANCE OF LICENSE. (a) The county clerk may not issue a license to the applicants if:

"(1) either applicant fails to provide information as required by Sections 1.02 and 1.05 of the code;

"(2) either applicant fails to submit proof of age;

and identity:

"(3) either applicant is under 16 years of age and the waiver of age requirements has not been ordered under the provisions of Section 1.51(c) of this code;

"(4) either applicant fails to comply with the requirements of Subchapter B of this chapter; or

"(5) either applicant checks 'false' in response to a statement in the application, except as provided in Subsection (b) of this section, or fails to make a required declaration in an affidavit required of an absent applicant.

"(b) If an applicant checks 'false' in response to the statement 'I am not presently married,' the county clerk shall inquire as to whether or not the applicant is presently married to the other applicant. If the applicant states that he is presently married to the other applicant, the county clerk shall record that statement on the license prior to the administration of the oath. The county clerk may not refuse to issue a license on the ground that the applicants are already married to each other.

"(c) [4a] On the proper execution of the application, the clerk shall prepare the license. On the reverse side of the license he shall enter the names of the licensees and, for each of them, the date of the medical examination or the fact that an exemption was obtained, and the name of the person appointed to act as proxy for an absent applicant, if any.

~~"(b) The county clerk shall not issue the license to the~~

~~applicants if he knows any fact which would make the marriage void or voidable under this code.~~

~~"(e) If it is revealed that either applicant has been divorced during the six-month period preceding the date of the application, the county clerk shall not issue the license unless it is shown that the subsequent marriage within the six-month period is permitted under Section 3.66 of this code."~~

Sec. 7. Subchapter C, Chapter 1, Family Code, is amended to read as follows:

"SUBCHAPTER C. UNDERAGE APPLICANTS

"Sec. 1.51. AGE REQUIREMENTS: GENERAL RULES. (a) A person [male] under 16 years of age may not marry. [A female under 14 years of age may not marry]."

"(b) Except with parental consent as prescribed by Section 1.52 of this code, with a court order as prescribed by Section 1.53 of this code, or with a waiver of age requirements as prescribed by Subsection (c) of this section, the county clerk shall not issue a marriage license if either [the male] applicant is under 18 [19] years of age [or if the female applicant is under 16 years of age]."

"(c) Upon petition in a district court in the name of the person seeking the waiver, the court may order the waiver of the age requirement prescribed in Subsection (a) for good cause shown."

"Sec. 1.52. UNDERAGE APPLICANT: PARENTAL CONSENT. (a) If the [male] applicant is 16 years of age or older but under 18 [19] years of age, [or if the female applicant is 14 years of age]

~~or older but under 18 years of age~~] the county clerk shall issue the license if parental consent is given as prescribed by this section.

"(b) Parental consent must be evidenced by a written declaration on a form supplied by the county clerk in which the person consents to the marriage and swears that he or she is a parent ~~(when there is no judicially designated managing conservator or guardian of the applicant's person) or a judicially designated managing conservator or guardian (whether an individual, authorized agency, or court) of the applicant's person [natural guardian of the person (when there is no judicially designated custodian or guardian of the person of the applicant) or an actual custodian of the person (when there is no natural guardian of the person of judicially designated custodian or guardian of the person of the applicant) or a judicially designated custodian or guardian of the person (whether an individual, authorized agency, or court) of the applicant]~~.

"(c) Except as otherwise provided by this section, consent must be acknowledged before the county clerk at the time the application is made for the marriage license.

"(d) If the person giving parental consent ~~(consenting parent or guardian)~~ resides in another state ~~[or territory of the United States]~~, the consent may be acknowledged before an officer authorized to issue marriage licenses in that state ~~[or territory]~~.

"(e) If the person giving parental consent ~~(consenting parent or guardian)~~ is unable ~~[to be present]~~ because of illness

or incapacity to comply with the provisions of Subsection (c) or (d) of this section, the consent may be acknowledged before any officer authorized to take acknowledgments; but it must be accompanied by a physician's affidavit stating that the person giving parental consent [~~parent or guardian~~] is unable to be present because of illness or incapacity.

"Sec. 1.53. UNDERAGE APPLICANT: COURT ORDER. (a) A person who is 16 years of age or older but under 18 years of age, may petition in his own name in a district court for an order granting permission to marry.

"(b) The petition must be filed in the county where a parent resides if a managing conservator or a guardian of the person has not been appointed. If a managing conservator or a guardian of the person has been appointed, the petition must be filed in the county where the managing conservator or the guardian of the person resides. If no person authorized to consent to marriage for the child resides in this state, the petition must be filed in the county where the child lives.

"(c) The petition shall include a statement of the reasons the child desires to marry, whether each parent is living or dead, the name and residence address of each living parent, and whether or not a managing conservator or a guardian of the person has been appointed for the child.

"(d) Process shall be served as in other civil cases on each living parent of the child, or if a managing conservator or a guardian of the person has been appointed, on the managing

conservator or guardian of the person.

"(e) The court shall appoint a guardian ad litem to represent the child in the proceeding and to speak for or against the petition in the manner he believes to be in the best interest of the child. The court shall prescribe a fee to be paid by the child for the services of the guardian ad litem; and the fee shall be collected as are other costs of the proceeding.

"(f) If, after a hearing, the court believes marriage to be in the best interest of the child, it shall make an order granting the child permission to marry."

Sec. 8. Section 1.82, Family Code, is amended to read as follows:

"Sec. 1.82. CEREMONY. (a) On receiving ~~[possession of the]~~ an unexpired marriage license, any authorized person may conduct the marriage ceremony.

"(b) A person unable to appear for the ceremony may assent to marriage by the appearance of a proxy appointed in the affidavit prescribed by Section 1.05 of this code."

Sec. 9. Section 1.92, Family Code, as amended, is amended to read as follows:

"Sec. 1.92. DECLARATION AND REGISTRATION. (a) A declaration of informal marriage shall be executed on a form prescribed by the Bureau of Vital Statistics of the State Department of Health and provided by the county clerk. Each party to the declaration shall provide the information required ~~[for which spaces are provided]~~ in the form.

"(b) The declaration form shall contain:

"(1) a heading entitled 'Declaration and Registration of Informal Marriage, \_\_\_\_\_ County, Texas';

"(2) spaces for each party's full name (including the woman's maiden surname), address, date of birth, place of birth (including city, county, and state), and social security number, if any [see];

"(3) a space for indicating the type of document tendered by each party as proof of age and identity;

"(4) printed boxes for each party to check 'true' or 'false' in response to the following statement: 'The other party is not related to me as:

"(A) an ancestor or descendant, by blood or adoption;

"(B) a brother or sister, of the whole or half blood or by adoption; or

"(C) a parent's brother or sister of the whole or half blood.';

~~[(3)] a printed declaration reading: 'We, the undersigned, declare that we are married to each other by virtue of the following facts: On or about \_\_\_\_\_ we agreed to be married, and after that date we lived together in this state as husband and wife and in this state represented to others that we were married.'~~

"(5) ~~[(4)]~~ a printed declaration and oath reading: 'I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED



TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT  
(DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED  
TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO  
OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE  
OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS  
DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN  
IS CORRECT. ~~['I SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE  
DECLARATION IS TRUE, THAT THE INFORMATION I HAVE GIVEN HEREIN IS  
CORRECT, THAT I AM NOT PRESENTLY MARRIED TO ANY OTHER PERSON, AND  
THAT I AM NOT RELATED TO THE OTHER PARTY TO THE DECLARATION WITHIN  
THE DEGREES PROHIBITED BY LAW.'];~~

"(6) [~~45~~] spaces immediately below the printed  
declaration and oath for the parties' signatures; and

"(7) [~~46~~] a certificate of the county clerk that  
the parties [~~applicant~~] made the declaration and oath and the  
place and date it was made.

"(c) If either party [~~was underage, as provided in Section  
2.44 of this code, at the time of the marriage and is either  
party~~] is [~~still~~] underage at the time of filing a declaration,  
the declaration shall have attached an acknowledged consent  
executed by a parent [~~the parents~~] of each underage person."

~~[(4)] The county clerk shall~~  
~~[(5)] determine that all necessary information is entered~~  
~~on the form~~  
~~[(6)] administer the oath to each party~~  
~~[(7)] have each party sign the declaration in his~~

1 ~~presence, and~~

2 ~~(4) execute his certificate on the declaration,~~

3 ~~(e) The county clerk shall record the declaration, deliver~~  
4 ~~the original of the declaration to the parties, and transmit a~~  
5 ~~copy to the Bureau of Vital Statistics.~~

6 ~~(f) A declaration executed under this section is prima~~  
7 ~~facie evidence of the marriage.]~~

8 Sec. 10. Chapter 1, Family Code, as amended, is amended  
9 by adding Sections 1.93, 1.94, and 1.95 to read as follows:

10 "Sec. 1.93. PROOF OF IDENTITY AND AGE. The county clerk  
11 shall require proof of the identity and age of each party to the  
12 declaration to be established by a certified copy of the party's  
13 birth certificate or by some certificate, license, or document  
14 issued by this state or another state, the United States, or a  
15 foreign government.

16 "Sec. 1.94. RECORDING OF DECLARATION. (a) The county  
17 clerk shall:

18 "(1) determine that all necessary information is  
19 entered in the declaration form and that all necessary documents  
20 are submitted to him;

21 "(2) administer the oath to each party to the  
22 declaration;

23 "(3) have each party sign the declaration in his  
24 presence; and

25 "(4) execute his certificate to the declaration.

26 "(b) The county clerk may not certify or record the

1 declaration if:

2 "(1) either party fails to supply any information,  
3 or to provide any document, required by this subchapter:

4 "(2) either party is under 16 years of age and waiver  
5 of the age requirement has not been ordered; or

6 "(3) either party checks 'false' in response to the  
7 statement of relationship to the other party.

8 "(c) On execution of the declaration, the county clerk  
9 shall record the declaration and all documents submitted with the  
10 declaration or note a summary of them on the declaration form,  
11 deliver the original of the declaration to the parties, and send  
12 a copy to the Bureau of Vital Statistics.

13 "(d) A declaration recorded as provided in this section  
14 is prima facie evidence of the marriage of the parties.

15 "Sec. 1.95. VIOLATION BY COUNTY CLERK. A county clerk or  
16 a deputy county clerk who violates any provision of this subchapter  
17 is guilty of a misdemeanor and on conviction is punishable by a  
18 fine of not less than \$200 nor more than \$500."

19 Sec. 11. Section 2.41, Family Code, as amended, is amended  
20 to read as follows:

21 "Sec. 2.41. UNDERAGE. (a) The licensed or informal  
22 marriage of persons under 16 years of age, unless a waiver of the  
23 age requirement has been ordered, is voidable and subject to  
24 annulment on the petition of a next friend for the benefit of the  
25 underage party or on the petition of the parent or the judicially  
26 designated managing conservator or guardian (whether an individual,

1 authorized agency, or court) of the person of the underage party.  
 2 A suit filed under this subsection by a next friend must be brought  
 3 within 90 days after the 16th birthday of the underage party, or  
 4 it is barred. A suit by a parent, managing conservator, or  
 5 guardian of the person may be brought at any time before the party  
 6 is 16 years of age, but thereafter must be brought within 90 days  
 7 after the petitioner knew or should have known of the marriage,  
 8 or it is barred. However, in no case may a suit by a parent,  
 9 managing conservator, or guardian of the person be brought under  
 10 this subsection after the underage person has reached 18 years  
 11 of age.

12 " (b) [(a)] The licensed or informal marriage of a person  
 13 [male] 16 years of age or older but under 18 [19] years of age [v  
 14 or a female 14 years of age or older but under 18 years of age],  
 15 without parental consent as provided in Section [Sections] 1.52  
 16 or [and] 1.92 of this code or without a court order as provided  
 17 by Section 1.53 of this code, is voidable and subject to annulment  
 18 [at the discretion of the court] on the petition of a next friend  
 19 for the benefit of the underage party, or on the petition of the  
 20 parent or the judicially designated managing conservator or  
 21 guardian (whether an individual, authorized agency or court) of  
 22 the person of the underage party. A suit filed under the name  
 23 of a next friend for the benefit of the underage party, or on the  
 24 petition of the parent or the judicially designated managing  
 25 conservator or guardian (whether an individual, authorized agency  
 26 or court) of the person of the underage party. A suit filed under

this subsection by a next friend must be brought within 90 days after the date of the marriage, or it is barred. A suit by a parent, managing conservator, or guardian of the person must be brought within 90 days after the date the petitioner knew or should have known of the marriage, or it is barred. However, in no case may a suit by a parent, managing conservator, or guardian of the person be brought under this subsection after the underage person has reached 18 years of age. [However, a suit may not be brought under this subsection more than 90 days after the date of the marriage.]

"(c) [\*\*\*] In any suit under this section the marriage is voidable at the discretion of the court sitting without a jury. In exercising its discretion [under this section], the court shall consider all pertinent facts concerning the welfare of the [and best interests of both] parties to the marriage, including whether or not the female is pregnant."

Sec. 12. Section 3.08, Family Code, is amended to read as follows:

"Sec. 3.08. DEFENSES. (a) The defense of recrimination is abolished.

"(b) Condonation[\*\*\*] is a [voided] defense only if the court finds [\*\*\*] that there is a reasonable expectation of reconciliation.

"(c) The defense of adultery is abolished."

Sec. 13. Section 3.21, Family Code, is amended to read as follows:

1       "Sec. 3.21, RESIDENCE--GENERAL RULE. No suit for divorce  
2 may ~~[shall]~~ be maintained unless at the time suit is filed the  
3 petitioner ~~or the respondent~~ has been a domiciliary of this state  
4 for the preceding ~~six-month~~ ~~[12-month]~~ period and a resident of  
5 the county in which the suit is filed for the preceding ~~ninety-day~~  
6 ~~[six-month]~~ period."

7       Sec. 14. Section 3.22, Family Code, is amended to read as  
8 follows:

9       "Sec. 3.22. ~~ABSENCE ON PUBLIC SERVICE. [RESIDENT WITH-OUT~~  
10 ~~OR STATE MILITARY SERVICE.]~~ For the purpose of Section 3.21 of  
11 this code, time spent by a Texas domiciliary in the service of  
12 the armed forces or other service of the United States or of this  
13 state outside this state or the county of residence of the  
14 domiciliary is considered residence in the state and county. ~~[A~~  
15 ~~resident who has been absent from this state for more than six~~  
16 ~~months in the military, naval, or other service of the United~~  
17 ~~States or of this state may sue for divorce in the county where~~  
18 ~~he resided before entering the service]."~~

19       Sec. 15. Section 3.23, Family Code, is amended to read as  
20 follows:

21       "Sec. 3.23, MILITARY PERSONNEL NOT PREVIOUSLY RESIDENTS.  
22 A person not previously a resident of this state who is serving  
23 in the armed forces of the United States and has been stationed  
24 at one or more military installations in this state for at least  
25 the last ~~six~~ ~~[12]~~ months and at one or more military installations  
26 in a county of this state for at least the last ~~ninety days~~

1 ~~[six months]~~ is considered to have been a domiciliary of this  
2 state and a resident of the county for those periods for the  
3 purpose of bringing suit for divorce or annulment or to declare  
4 a marriage void."

5 Sec. 16. Section 3.24, Family Code, is amended to read as  
6 follows:

7 "Sec. 3.24. SUIT BY NONRESIDENT SPOUSE. If one spouse has  
8 been a domiciliary of this state for at least the last ~~six~~ [42]  
9 months, a spouse domiciled in another state or nation  
10 ~~[jurisdiction]~~ may sue for divorce in the county where the  
11 domiciled spouse is domiciled at the time the petition is filed."

12 Sec. 17. Section 3.25, Family Code, is amended to read as  
13 follows:

14 "Sec. 3.25. SUIT FOR ANNULMENT ~~[SUIT]~~ OR TO DECLARE A  
15 MARRIAGE VOID. (a) A suit for annulment of a marriage or to  
16 declare a marriage void may be maintained in this state only if  
17 the parties were married in this state or if either party is  
18 domiciled in this state."

19 "(b) A suit for annulment of a marriage or to declare a  
20 marriage void is a suit in rem, affecting the status of the parties  
21 to the marriage. Process shall be served as in a suit for  
22 divorce."

23 Sec. 18. Section 3.52, Family Code, is amended to read as  
24 follows:

25 "Sec. 3.52. PLEADINGS. [PLEADINGS, STATEMENT OF FACTS]  
26 Pleadings of the parties in a suit for divorce or annulment or

1 to declare a marriage void shall contain allegations of the grounds  
 2 relied on substantially in the language of the statute and without  
 3 a detailed statement of evidentiary facts. Allegations of grounds  
 4 for relief, matters of defense, or facts relied on for temporary  
 5 relief stated in short and plain terms are not subject to special  
 6 exceptions because of form or sufficiency. Except for allegations  
 7 relied on for temporary relief, all allegations of evidentiary  
 8 facts shall be stricken from the pleadings on the motion of any  
 9 party to the suit or by the court on its own motion."

10 ~~[(e) Any pleading praying for a divorce or annulment shall~~  
 11 ~~allege the grounds relied on as nearly as possible in the language~~  
 12 ~~of the statute and without a detailed statement of the facts]~~

13 ~~(f) The opposing party shall be furnished on request a~~  
 14 ~~separate statement of the facts relied on to support a decree.~~  
 15 ~~Each fact alleged in the statement shall be considered as denied~~  
 16 ~~by the opposing party unless expressly admitted.~~

17 ~~(g) A copy of the statement shall be furnished to the judge~~  
 18 ~~but shall not become a part of the record of the case. However,~~  
 19 ~~if the court's judgment is appealed on any ground relating to an~~  
 20 ~~allegation in the statement, then the statement shall be included~~  
 21 ~~in the record on appeal.]~~

22 Sec. 19. Section 3.53, Family Code, is amended to read as  
 23 follows:

24 "Sec. 3.53. ANSWER. In a suit for divorce or annulment  
 25 or to declare a marriage void, the respondent [defendant] need  
 26 not answer upon oath, and the petition shall not be taken as



1 confessed for want of an answer."

2       Sec. 20. Section 3.54, Family Code, is amended to read as  
3 follows:

4       "Sec. 3.54. COUNSELING. (a) On the filing of a petition  
5 for divorce, the clerk shall furnish an availability of counseling  
6 notice to the attorney filing the petition. Except in a suit in  
7 which the respondent is cited by publication, the attorney shall  
8 forward the notice to both parties to the suit and shall certify  
9 to the court that he has complied with the provisions of this  
10 subsection.

11       "(b) The availability of counseling notice shall be printed  
12 on the stationery of the clerk and shall state:

13       "In a divorce suit the court is authorized by law to require  
14 both parties to consult with a marriage counselor or other person  
15 appointed by the court. The counselor's function is to report  
16 to the court whether or not, in the opinion of the counselor,  
17 there exists a reasonable expectation of reconciliation and, if  
18 so, whether further counseling would be beneficial. If you believe  
19 that counseling would be beneficial to you or to the court, you  
20 may ask your attorney to request that the court order consultation  
21 with a counselor.'

22       "(c) [↔] After a petition for divorce is filed, the  
23 court may, in its discretion, direct the parties to counsel with  
24 a person or persons named by the court, who shall submit a written  
25 report to the court before the hearing on the petition.

26       "(d) [↔] In his report, the counselor shall give only

1 his opinion as to whether there exists a reasonable expectation  
2 of reconciliation of the parties, and if so, whether further  
3 counseling would be beneficial. The sole purpose of the report  
4 is to aid the court in determining whether the suit for divorce  
5 should be continued pending further counseling, and the report  
6 shall not be admitted as evidence in the suit. Copies of the  
7 report shall be furnished to the parties.

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8 "(e) [e]" If the court is of the opinion that there  
9 exists a reasonable expectation of the parties' reconciliation,  
10 the court may by written order continue the proceedings and direct  
11 the parties to any person or persons named by the court for further  
12 counseling for a period of time fixed by the court not to exceed  
13 60 days, subject to any terms, conditions, and limitations the  
14 court deems desirable. The court shall consider the circumstances  
15 of the parties, including the needs of the parties' family, and  
16 the availability of counseling services, in making its order.  
17 At the expiration of the period of time specified by the court,  
18 the counselor to whom the parties were directed shall report to  
19 the court whether the parties have complied with the court's  
20 order. Thereafter, the court shall proceed as in divorce suits  
21 generally.

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22 "(f) [f]" No person who has counseled parties to a suit  
23 for divorce under this section is competent to testify in any  
24 action involving the parties or their children. The files,  
25 records, and other work-products of the counselor are privileged  
26 and confidential for all purposes and may not be admitted as

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1 evidence in any action involving the parties or their children.

2 "(g) [~~et~~] The expenses of counseling may be taxed as  
3 costs against either or both parties."

4 Sec. 21. Section 3.56, Family Code, is amended to read as  
5 follows:

6 "Sec. 3.56. INVENTORY AND APPRAISEMENT. At any time during  
7 a suit for divorce or annulment ~~or to declare a marriage void~~,  
8 a party [~~either spouse~~] may, for the preservation of [~~his or her~~]  
9 rights, require an inventory and appraisal of all property in  
10 the possession of another party [~~the other spouse~~], and may obtain  
11 an injunction restraining another party [~~the other spouse~~] from  
12 disposing of the property in any manner."

13 Sec. 22. Section 3.58, Family Code, is amended to read as  
14 follows:

15 "Sec. 3.58. TEMPORARY ORDERS. After a petition for divorce  
16 or annulment ~~or to declare a marriage void~~ is filed, the court  
17 or judge may make temporary orders respecting the property and  
18 parties as deemed necessary and equitable."

19 Sec. 23. Section 3.64, Family Code, is amended to read as  
20 follows:

21 "Sec. 3.64. CHANGE OF NAME. In a decree for divorce or  
22 annulment, the court for good cause shown may change the name of  
23 either party specifically requesting the change. A change of  
24 name does not release a person from any liability incurred in a  
25 previous name or defeat any right which the person held in a  
26 previous name. [DEGREE. ~~The court shall base its decree for~~

~~divorce or annulment on full and satisfactory evidence.] "~~

Sec. 24. Sections 3.65 and 3.66, Family Code, are amended to read as follows:

"Sec. 3.65. COSTS. In a suit for divorce or annulment ~~[or to]~~ or to declare a marriage void, the court may award costs to any ~~[either]~~ party as it deems reasonable. However, costs may not be adjudged against a party against whom a divorce is granted under Section 3.07 of this code.

"Sec. 3.66. REMARRIAGE. Neither party to a divorce may marry a third party for a period of thirty days ~~[six months]~~ immediately following the date the divorce is decreed, but the parties divorced may marry each other at any time. ~~[The court granting the divorce, for good cause shown, may at the time of the divorce decree or thereafter waive the prohibition of this section as to either or both parties.] "~~

Sec. 25. Section 5.03, Family Code, is amended to read as follows:

"Sec. 5.03. RECORDATION OF SEPARATE PROPERTY. A subscribed and acknowledged schedule of a spouse's separate property may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property is located. As to real property, a schedule of a spouse's separate property is not constructive notice to ~~[void as against]~~ a good faith purchaser for value or a creditor without actual notice unless the instrument is acknowledged and recorded in the deed records of the county in which the real property is

located."

Sec. 26. Subsections (b) and (c), Section 5.22, Family Code, are amended to read as follows:

"(b) If community property subject to the sole management, control, and disposition of one spouse is mixed or combined with community property subject to the sole management, control, and disposition of the other spouse, then the mixed or combined community property is subject to the joint management, control, and disposition of the spouses, unless the spouses provide otherwise by power of attorney in writing or other agreement [~~in writing~~]."

"(c) Except as provided in Subsection (a) of this section, the community property is subject to the joint management, control, and disposition of the husband and wife, unless the spouses provide otherwise by power of attorney in writing or other agreement [~~in writing~~]."

Sec. 27. Section 5.24, Family Code, is amended to read as follows:

"Sec. 5.24. PROTECTION OF THIRD PERSONS. [~~PRESUMPTION.~~]

(a) During marriage, property is presumed to be subject to the sole management, control, and disposition of a spouse if it is held in his or her name, as shown by muniment, contract, deposit of funds, or other evidence of ownership, or if it is in his or her possession and is not subject to such evidence of ownership.

"(b) A third person dealing with a spouse is entitled to rely (as against the other spouse or anyone claiming from that

spouse) on that spouse's authority to deal with the property if: \_\_\_\_\_

"(1) the property is presumed to be subject to the sole management, control, and disposition of the spouse; and \_\_\_\_\_

"(2) the person dealing with the spouse: \_\_\_\_\_

"(A) is not a party to a fraud upon the other spouse or another person; and \_\_\_\_\_

"(B) does not have actual or constructive notice of the spouse's lack of authority." \_\_\_\_\_

~~[(c) As to personal property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this code, or a partition or exchange agreement under Section 5.42 of this code, shall not be deemed constructive notice of the schedule, order, marital property agreement, or partition or exchange agreement for the purposes of Subsection (b)(2)(B) of this section. As to real property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this code, or a partition or exchange agreement under Section 5.42 of this code, in the deed records of the county in which the real property is located is constructive notice for the purposes of Subsection (b)(2)(B) of this section.]~~ \_\_\_\_\_

Sec. 28. Section 5.25, Family Code, is amended to read as follows: \_\_\_\_\_

"Sec. 5.25. UNUSUAL CIRCUMSTANCES. (a) If (1) a spouse \_\_\_\_\_

1 is unable to manage, control, or dispose of the community property  
 2 subject to his or her sole or joint management, control, and  
 3 disposition, (2) a spouse disappears and his or her location  
 4 remains unknown to the other spouse, except under circumstances  
 5 in which Section 5.26 of this code is applicable, (3) a spouse  
 6 permanently abandons the other, or (4) the spouses are permanently  
 7 separated, then not less than 60 days thereafter the capable  
 8 spouse, or the remaining spouse, or the abandoned spouse, or  
 9 either spouse in the case of permanent separation, may file a  
 10 sworn petition stating the facts that make it desirable for the  
 11 petitioning spouse to manage, control, and dispose of community  
 12 property (described or defined in the petition) that would  
 13 otherwise be subject to the sole or joint management, control,  
 14 and disposition of the other.

15 "(b) The petition shall be filed in a district court of  
 16 the county in which the petitioner [~~petitioning spouse~~] resided  
 17 at the time the incapacity or separation began, or the abandonment  
 18 or disappearance occurred. If both spouses are nonresidents of  
 19 the state at that time, the petition shall be filed in the district  
 20 court of any county in which any part of the described or defined  
 21 community property is located.

22 "(c) The court may appoint an attorney for the suit for  
 23 the respondent and shall award a reasonable fee for the attorney's  
 24 services as a part of the costs of the suit.

25 "(d) [~~to~~] A notice stating that the petition has been  
 26 filed and specifying the date of the hearing, accompanied by a

1 copy of the petition, shall be issued and served on the attorney  
 2 for the suit, if one is appointed, or, if an attorney is not  
 3 appointed, on the respondent [spouse] as in other cases.

4 "(e) [↔] If the residence of the respondent is unknown,  
 5 notice shall be published in a newspaper of general circulation  
 6 published in the county in which the petition was filed. If that  
 7 county has no newspaper of general circulation, [then] notice  
 8 shall be published in a newspaper of general circulation in an  
 9 adjacent county or in the nearest county in which a newspaper of  
 10 general circulation is published. The notice shall be published  
 11 once a week for two consecutive weeks before the hearing, but the  
 12 first publication shall not be less than 20 days before the date  
 13 set for the hearing.

14 "(f) [↔] After hearing the evidence, the court, on terms  
 15 it deems just and equitable, shall enter an order describing or  
 16 defining the community property at issue that will be subject to  
 17 the management, control, and disposition of each spouse during  
 18 marriage. [~~↔ In the exercise of its equity power, the~~ The  
 19 court may impose any conditions and restrictions it deems necessary  
 20 to protect the rights of the respondent, [~~other spouse. The court~~  
 21 may] require a bond conditioned on the faithful administration  
 22 of the property, [proceeds] and [~~or may~~] require payment of all  
 23 or a portion of the proceeds of sale of the property to the  
 24 registry of the court, to be disbursed in accordance with the  
 25 court's further directions.

26 "(g) [↔] The jurisdiction of the court is continuing,



and on motion of either spouse, after notice has been given in the same manner that notice is given under Subsection (d) or (e) ~~[(e) or (d)]~~ of this section, the court shall amend or vacate the original order if:

"(1) the incapable spouse's capacity is restored;

"(2) the spouse who disappeared reappears; or

"(3) the abandonment or permanent separation ends.

"(b) ~~[(e)]~~ An order authorized by Subsection (f) ~~[(e)]~~ of this section affecting real property is not constructive notice to ~~void as against~~ a good faith purchaser for value or ~~against~~ a creditor without actual notice unless the order is recorded in the deed records of the county in which the real property is located."

~~[(e)] This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.~~

Sec. 29. Section 5.26, Family Code, as added, is amended to read as follows:

"Sec. 5.26. SPOUSE MISSING ON PUBLIC SERVICE. ~~[(CIRCUMSTANCES OF PERSON MISSING IN ACTION OR PRISONER OF WAR)]~~ (a) If a spouse is reported by an executive department of the United States ~~[(the United States Department of Defense)]~~ to be a prisoner of war or missing on the public service of the United States ~~[(in action)]~~, then not less than six months thereafter the spouse of the prisoner of war or missing person ~~[(person missing in action)]~~ may file a sworn petition stating the facts that make it desirable for the petitioner ~~[(petitioning spouse)]~~ to manage, control, and dispose

of the community property (described or defined in the petition) that would otherwise be subject to the sole or joint management, control, and disposition of the other.

"(b) The petition shall be filed in the district court of the county in which the petitioner ~~[petitioning spouse]~~ resided at the time the ~~[United States Department of Defense]~~ report was made. If both spouses were ~~[are]~~ nonresidents of the state at that time, the petition shall be filed in the district court of any county in which any part of the described or defined property is located.

"(c) The court shall appoint an attorney for the suit for the respondent ~~[ad litem for the prisoner of war or person missing in action]~~ and shall allow him a reasonable fee for his services to be taxed as a part of the costs.

"(d) A notice stating that the petition has been filed and specifying the date of the hearing, accompanied by a copy of the petition, shall be issued and served on the attorney ~~[ad litem]~~ representing the respondent ~~[spouse]~~ as in other cases.

"(e) After hearing the evidence, the court, on terms it deems just and equitable, shall enter an order describing or defining the community property at issue that will be subject to the management, control, and disposition of each spouse during marriage. ~~[In the exercise of its equity powers, the]~~ The court may impose any conditions and restrictions it deems necessary to protect the rights of the respondent. ~~[other spouse]~~ ~~[The court may]~~ require a bond conditioned on the faithful

1 administration of the property, and ~~[proceeds of sale]~~ require  
2 payment of all or a portion of the proceeds of sale of the property  
3 to the registry of the court, to be disbursed in accordance with  
4 the court's further directions.

5 "(f) The jurisdiction of the court is continuing, and on  
6 motion of either spouse, after notice stating that the motion has  
7 been filed and specifying the date of the hearing, accompanied  
8 by a copy of the motion, has been issued and served on the  
9 respondent ~~[spouse]~~ as in other cases, the court shall amend or  
10 vacate the original order if the spouse who was a prisoner of war  
11 or missing ~~[in action]~~ returns.

12 "(g) An order authorized by Subsection (e) of this section  
13 affecting real property is ~~not constructive notice to ~~[void as~~~~  
14 ~~against]~~ a good faith purchaser for value or ~~[against]~~ a creditor  
15 without actual notice unless the order is recorded in the deed  
16 records of the county in which the real property is located."

17 ~~[(f)] This section is cumulative of the rights, powers, and~~  
18 ~~remedies otherwise afforded the spouses by law.]~~

19 Sec. 30. Chapter 5, Family Code, is amended by adding  
20 Section 5.27 to read as follows:

21 "Sec. 5.27. REMEDIES CUMULATIVE. The remedies provided  
22 in Sections 5.25 and 5.26 of this code are cumulative of other  
23 rights, powers, and remedies afforded spouses by law."

24 Sec. 31. Subsection (e), Section 5.41, Family Code, is  
25 amended to read as follows:

26 "(e) A marital property agreement may be recorded in the

1 deed records of the county in which the parties, or one of them,  
2 reside and in the county or counties in which the real property  
3 affected or to be affected is located. As to real property, a  
4 marital property agreement is not constructive notice to ~~to~~  
5 ~~as against~~ a good faith purchaser for value or a creditor without  
6 actual notice unless the instrument is acknowledged and recorded  
7 in the county in which the real property is located."

8 Sec. 32. Subsection (d), Section 5.42, Family Code, is  
9 amended to read as follows:

10 "(d) A partition or exchange agreement may be recorded in  
11 the deed records of the county in which the parties, or one of  
12 them, reside and in the county or counties in which the real  
13 property affected is located. As to real property, a partition  
14 or exchange agreement is not constructive notice to ~~to~~  
15 ~~as against~~ a good faith purchaser for value or a creditor without  
16 actual notice unless the instrument is acknowledged and recorded  
17 in the county in which the real property is located."

18 Sec. 33. Subsection (b), Section 5.83, Family Code, is  
19 amended to read as follows:

20 "(b) The petition shall be filed in a district court of  
21 the county in which any portion of the property is located. The  
22 court may appoint an attorney for the suit for the respondent and  
23 shall award a reasonable fee for his services as a part of the  
24 costs of the suit. Notice shall be issued and served in the  
25 manner provided in Subsection (d) or (e) ~~(c) or (d)~~ of Section  
26 5.25 of this code."

1        Sec. 34. Chapter 5, Family Code, as amended, is amended  
2 by adding a Section 5.831 to read as follows:

3        "Sec. 5.831. SEPARATE HOMESTEAD: SPOUSE MISSING ON PUBLIC  
4 SERVICE: SALE WITHOUT JOINDER. (a) If the homestead is the  
5 separate property of a spouse and the other spouse is reported  
6 by an executive department of the United States to be a prisoner  
7 of war or missing on public service of the United States, not  
8 less than six months thereafter the owner may file a sworn petition  
9 giving a description of the property and stating the facts that  
10 make it desirable for the owner to sell, convey, or encumber the  
11 homestead without the joinder of the other spouse.

12        "(b) The petition shall be filed in a district court of  
13 the county in which any portion of the property is located. The  
14 court shall appoint an attorney for the suit for the respondent  
15 and shall award a reasonable fee for the attorney's service as  
16 a part of costs of the suit. Notice shall be issued and served  
17 in the manner provided in Subsection (d) of Section 5.26 of this  
18 code.

19        "(c) After hearing the evidence, the court shall enter an  
20 order it deems just and equitable with respect to sale, conveyance,  
21 or encumbrance of the homestead."

22        Sec. 35. Section 5.85, Family Code, is amended to read as  
23 follows:

24        "Sec. 5.85. COMMUNITY HOMESTEAD: UNUSUAL CIRCUMSTANCES;  
25 SALE WITHOUT JOINDER. (a) If the homestead is the community  
26 property of the spouses and if (1) a spouse is incompetent (whether

judicially declared incompetent or not), (2) a spouse disappears and his or her location remains unknown to the other spouse, (3) a spouse permanently abandons the homestead and the other spouse, or (4) a spouse permanently abandons the homestead and the spouses are permanently separated, [then] not less than 60 days thereafter the competent spouse, the remaining spouse, the abandoned spouse, or the spouse who has not abandoned the homestead in a case of permanent separation, who desires to sell, convey, or encumber the community homestead of the spouses, may file a sworn petition giving a description of the property and stating the facts that make it desirable for the petitioner to sell, convey, or encumber the homestead without the joinder of the other spouse.

"(b) The petition shall be filed in a district court of the county in which any portion of the property is located. ~~The court may appoint an attorney for the suit for the respondent and shall award a reasonable fee for the attorney's service as a part of costs of the suit.~~ Notice shall be issued and served in the manner provided in Subsection (d) or (e) ~~[(e) or (d)]~~ of Section 5.25 of this code.

"(c) After hearing the evidence, the court, ~~[shall enter an order granting relief if it appears necessary or advisable and on terms the court deems advisable]~~ on terms it deems just and equitable, shall enter an order describing or defining the community property at issue that will be subject to the management, control, and disposition of each spouse during marriage. ~~[(e) In the exercise of its equity powers, the]~~ The court may impose

any conditions and restrictions it deems necessary to protect the rights of the respondent, ~~[other spouse. The court may]~~ require a bond conditioned on the faithful administration of the property, and ~~[proceeds or may]~~ require payment of all or a portion of the proceeds of sale of the property to the registry of the court, to be disbursed in accordance with the court's further directions."

Sec. 36. Section 5.86, Family Code, is amended to read as follows:

"Sec. 5.86. REMEDIES AND POWERS CUMULATIVE. The remedies provided by Sections 5.83, ~~5.831, 5.85, and 5.87~~ ~~[and 5.85]~~ of this code, and the powers of a spouse under Sections 5.82 and 5.84 of this code, are cumulative of the other rights, powers, and remedies ~~[otherwise]~~ afforded the spouses by law."

Sec. 37. Section 5.87, Family Code, as amended, is amended to read as follows:

"Sec. 5.87. COMMUNITY HOMESTEAD; ~~SPOUSE MISSING ON PUBLIC SERVICE; [CIRCUMSTANCE OF PERSON MISSING IN ACTION OR PRISONER OF WAR]~~ SALE WITHOUT JOINDER. (a) If the homestead is the community property of the spouses and if a spouse is reported by an executive department of the United States ~~[the United States Department of Defense]~~ to be a prisoner of war or missing on public service of the United States, ~~[in action then]~~ not less than six months thereafter the spouse of the prisoner of war or missing person ~~[person missing in action]~~, who desires to sell, convey, or encumber the community homestead of the spouses, may file a sworn petition giving a description of the property and

1 stating the facts that make it desirable for the petitioning  
2 spouse to sell, convey, or encumber the homestead without the  
3 joinder of the other spouse.

4 "(b) The petition shall be filed in a district court of  
5 the county in which any portion of the property is located. The  
6 court shall appoint an attorney for the suit for the respondent  
7 ~~[ed item for the prisoner of war or person missing in action]~~  
8 and shall award ~~[allow him]~~ a reasonable fee for the attorney's  
9 service ~~[his services to be taxed]~~ as a part of the costs of the  
10 suit. Notice shall be issued and served in the manner provided  
11 in Subsection (d) of Section 5.26 of this code.

12 "(c) After hearing the evidence, the court shall enter an  
13 order granting relief if it appears necessary or advisable, and  
14 on terms the court deems advisable. The court may impose any  
15 conditions and restrictions it deems necessary to protect the  
16 rights of the respondent, may require a bond conditioned on the  
17 faithful administration of the property, or may require payment  
18 of all or a portion of the proceeds of sale of the property to  
19 the registry of the court to be disbursed in accordance with the  
20 court's further directions.

21 ~~[(d)] In the exercise of its equity powers, the court may~~  
22 ~~impose any conditions and restrictions it deems necessary to~~  
23 ~~protect the rights of the other spouse. The court may require~~  
24 ~~a bond conditioned on faithful administration of the proceeds or~~  
25 ~~may require payment of all or a portion of the proceeds to the~~  
26 ~~registry of the court, to be disbursed in accordance with the~~



~~court's further directions.~~

~~(c) This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.]~~

Sec. 38. Subsection (a), Section 2.46, Family Code, is amended to read as follows:

"(a) On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

"(1) the other party was divorced from a third party within the thirty day ~~[six month]~~ period preceding the day of the marriage ceremony ~~[and the prohibition against marrying again within the six month period was not waived under Section 3.66 of this code];~~

"(2) at the time of the marriage ceremony, the petitioner did not know, and a reasonably prudent person would not have known, of the divorce; and

"(3) since the petitioner discovered, or a reasonably prudent person would have discovered, the fact of the divorce, the petitioner has not voluntarily cohabited with the other party."

Sec. 39. This Act takes effect January 1, 1974.

Sec. 40. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended.


Austin, Texas

May 23, 1973

Honorable William P. Hobby  
President of the Senate

Sir:

We, your Committee on Administration,  
to which was referred H. B. No. 103, have had the same  
under consideration, and I am instructed to report it back to  
the Senate with the recommendation that it do \_\_\_\_\_  
pass \_\_\_\_\_ and be \_\_\_\_\_ printed.

  
Chairman

CAS

A

COMMITTEE AMENDMENT NO. 1

Amend H.B. No. 103, First Printing, as follows:

(1) At the beginning of line 26 of page 5, strike the term "Sec. 5." and substitute the term "Sec. 4." .

(2) On line 27 of page 8, strike the letter "(c)" and substitute the letter "(b)" .

(3) On line 1 of page 18, between the words "under" and "of", insert the phrase "the name" .

JHF  
MAY 19 1973

DATE

READ AND ADOPTED

*Donald H. Hallman*  
Chief Clerk  
House of Representatives

Grant

COMMITTEE AMENDMENT NO. 2

Amend H.B. No. 103, First Printing, as follows:

(1) Strike lines 19-21 on page 4 and substitute the following:

JHF  
NBH  
(4) spaces for indicating whether each applicant has been divorced within the last 30 days [~~and-if-so-whether-the-applicant-has-been-divorced-during-the-six-month-period-preceding-the-date-of-the-application~~];

(2) Redesignate the quoted Subdivisions (4)-(10) appearing on lines 22-27 of page 4 and lines 1-25 of page 5, as Subdivisions (5)-(11), respectively.

(3) Add on line 26 of page 24, immediately following "3.65" the phrase "and 3.66".

(4) Strike the quotation mark at the end of line 5, page 25 and add a new paragraph immediately following line 5 to read as follows:

JHF  
NBH  
"Section 3.66. Remarriage.

"Neither party to a divorce may marry a third party for a period of thirty days [~~six-months~~] immediately following the date the divorced is decreed, but the parties divorced may marry each other at any time. [~~The court granting the divorce, for good cause shown, may at the time of the divorce decree or thereafter waive the prohibition of this section as to either or both parties.~~]"

NBH

(5) Strike line 7 on page 37 and substitute the following:

"Sec. 38. Subsection (a), Section 2.46, Family Code, is amended to read as follows: DATE MAY 19 1973

READ AND ADOPTED

JHF  
Barbara Hallman  
Chief Clerk

House of Representatives

Grant

"(a) On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

"(1) the other party was divorced from a third party within the thirty day ~~[six-month]~~ period preceding the day of the marriage ceremony ~~[-and-the-prohibition-against-marrying-again-within-the-six-month-period-was-not-waived-under-Section-3.66-of-this-code]~~;

"(2) at the time of the marriage ceremony, the petitioner did not know, and a reasonably prudent person would not have known, of the divorce; and

"(3) since the petitioner discovered, or a reasonably prudent person would have discovered, the fact of the divorce, the petitioner has not voluntarily cohabited with the other party."

KBV

*Grant*

COMMITTEE AMENDMENT NO. 3

Amend H.B. No. 103, First Printing, as follows:

(1) Strike the term "six-month" on line 9 of page 19 and substitute the term "ninety day".

(2) Strike the words "six months" on line 3 of page 20 and substitute the words "ninety days".

*JRF*

MAY 19 1973

DATE \_\_\_\_\_

READ AND ADOPTED

*Charles Hallman*

Chief Clerk

House of Representatives

*Grant*

COMMITTEE AMENDMENT NO. 4

Amend H.B. No. 103, First Printing, by striking lines 11-14  
on page 3 and substituting the following:

"<sup>1</sup>Sec. 1.01. MARRIAGE LICENSE. A man and a woman **[Persons]**  
desiring to enter into a ceremonial marriage shall obtain a marriage license  
from the county clerk of any county of this state. A license may not be  
issued for the marriage of persons of the same sex."

MAY 19 1973  
DATE \_\_\_\_\_  
READ AND ADOPTED  
*Dorothy Hollman*  
Chief Clerk  
House of Representatives

THE RBL

Grant

COMMITTEE AMENDMENT NO. 5

Amend H.B. No. 103, First Printing, as follows:

(1) Strike lines 21 and 22 on page 8 and substitute the following:

"(3) either applicant is under 16 years of age and the waiver of age requirements has not been ordered under the provisions of Section 1.51(c) of this code;" JHF RBJ

(2) Strike lines 1-14 on page 10 and substitute the following:

"Sec. 1.51. AGE REQUIREMENTS: GENERAL RULES. (a) A person ~~[male]~~ under 16 years of age may not marry. ~~[A female under 14 years of age may not marry.]~~

"(b) Except with parental consent as prescribed by Section 1.52 of this code, with a court order as prescribed by Section 1.53 of this code, or with a waiver of age requirements as prescribed by Subsection (c) of this section, the county clerk shall not issue a marriage license if either ~~[the male]~~ applicant is under 18 ~~[19]~~ years of age ~~[or if the female applicant is under 18 years of age]~~.

"(c) Upon petition in a district court in the name of the person seeking the waiver, the court may order the waiver of the age requirement prescribed in Subsection (a) for good cause shown.

"Sec. 1.52. UNDERAGE APPLICANT: PARENTAL CONSENT. (a) If the ~~[male]~~ applicant is 16 years of age or older but under 18 ~~[19]~~ years of age, ~~[or if the female applicant is 14 years of age or older but under 18 years of age]~~ the county clerk shall issue the license if parental consent is given as prescribed by this section."

(3) Strike lines 17-19 on page 11 and substitute the following:

"Sec. 1.53. UNDERAGE APPLICANT: COURT ORDER. (a) A person who is 16 years of age or older but under 18 years"

DATE MAY 19 1973

READ AND ADOPTED

*Joseph A. Herman*  
Chief Clerk  
House of Representatives

KBJ



Grant

(4) Strike lines 10 and 11 on page 16 and substitute the following:

*THF* *12/3/18*  
"(2) either party is under 16 years of age and waiver of the age requirement has not been ordered; or" .

(5) Strike lines 1-12 on page 17 and substitute the following:

*THF*  
"of persons under 16 years of age, unless a waiver of the age requirement has been ordered, is voidable and subject to annulment on the petition of a next friend for the benefit of the underage party or on the petition of the parent or the judicially designated managing conservator or guardian (whether an individual, authorized agency, or court) of the person of the underage party. A suit filed under this subsection by a next friend must be brought within 90 days after the 16th birthday of the underage party, or it is barred. A suit by a parent, managing conservator, or guardian of the person may be brought at any time before the party is 16 years of age, but thereafter must be". *R/SK*

(6) Strike lines 18-20 on page 17 and substitute the following:

*THF*  
"(b) [(a)] The licensed or informal marriage of a person [male] 16 years of age or older but under 18 [19] years of age [er-a female-14-years-of-age-or-older-but-under-18-years-of-age], without" .  
*12/3/18*

MAY 29 1973

ENROLLED  
H.B. No. 103

AN ACT

amending Title 1 of the Family Code as follows: amending Section 1.01, relating to the persons who may acquire a marriage license; amending Section 1.02, relating to application for a marriage license; amending Subsection (b), Section 1.03, relating to the content of the marriage license application; amending Section 1.05, relating to application for a marriage license without a personal appearance before the clerk; amending Section 1.06, relating to the execution of the marriage license application; amending Section 1.07, relating to the issuance of a marriage license; amending Subchapter C, Chapter 1, relating to age requirements and parental or other consent for marriage; amending Section 1.82, relating to the ceremony; amending Section 1.92, relating to the declaration and registration of informal marriage; amending Chapter 1 by adding Sections 1.93, 1.94, and 1.95, relating to the issuance of declarations of informal marriages, violations by county clerks, and the application of penalties; amending Section 2.41, relating to marriages that are voidable and subject to annulment by the court sitting without a jury; amending Section 3.08, relating to defenses to a suit for divorce; amending Section 3.21, relating to domicile and residence requirements for divorce suits; amending Section 3.22, relating to the residency of a person absent on public service; amending Section 3.23, relating to the domiciliary and residency status of certain military personnel; amending Section 3.24, relating

1 to suit by a nonresident spouse; amending Section 3.25, providing  
2 for a suit to declare a marriage void; amending Section 3.52,  
3 relating to pleadings; amending Section 3.53, relating to a suit  
4 to declare a marriage void; amending Section 3.54, relating to  
5 the requirement and availability of counseling; amending Section  
6 3.56, relating to a suit to declare a marriage void; amending  
7 Section 3.58, relating to a suit to declare a marriage void;  
8 amending Section 3.64, relating to change of name and removing  
9 the requirement that a divorce or annulment decree must be based  
10 on full and satisfactory evidence; amending Section 3.65, relating  
11 to a suit to declare a marriage void; amending Section 5.03,  
12 relating to recordation of a schedule of separate property and  
13 the effect of recordation; amending Subsections (b) and (c),  
14 Section 5.22, relating to the management, control, and disposition  
15 of community property; amending Section 5.24, relating to the  
16 protection of third persons; amending Section 5.25, relating to  
17 management, control, and disposition of certain community property  
18 in certain unusual circumstances; amending Section 5.26, relating  
19 to management, control, and disposition of certain community  
20 property in case of a spouse missing on public service; amending  
21 Chapter 5 by adding a Section 5.27, relating to cumulative  
22 remedies; amending Subsection (e), Section 5.41, and Subsection  
23 (d), Section 5.42, relating to recordation of agreements and  
24 constructive notice of these agreements; amending Subsection (b),  
25 Section 5.83, providing for the appointment of an attorney for  
26 the suit; amending Chapter 5 by adding a Section 5.831, relating

1 to certain homestead rights in the case of a missing spouse;  
2 amending Section 5.85, relating to certain homestead rights under  
3 unusual circumstances; amending Section 5.86, relating to  
4 cumulative rights and remedies; amending Section 5.87, as added,  
5 relating to a community homestead when a spouse is missing on  
6 public service; amending Subsection (a), Sec. 2.46, Family Code;  
7 and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 Section 1. Section 1.01, Family Code, is amended to read  
10 as follows:

11 "Sec. 1.01. MARRIAGE LICENSE. A man and a woman [~~Persons~~]  
12 desiring to enter into a ceremonial marriage shall obtain a  
13 marriage license from the county clerk of any county of this  
14 state. A license may not be issued for the marriage of persons  
15 of the same sex."

16 Sec. 2. Section 1.02, Family Code, is amended to read as  
17 follows:

18 "Sec. 1.02. APPLICATION FOR LICENSE. Except as otherwise  
19 provided by Section 1.05 of this code, persons [~~Persons~~] applying  
20 for a license shall:

21 "(1) appear together or separately before the county clerk;

22 "(2) submit for each applicant:

23 "(A) proof of identity and age as prescribed by  
24 Section 1.04 of this code;

25 "(B) a medical examination certificate or an exemption  
26 order as prescribed by Subchapter B of this chapter; and,

1           ~~"[(C)] if applicable, the county judge's order~~  
2 ~~prescribed by Section 1.05 of this code; and]~~

3           "(C)~~[(B)]~~ if required, the documents establishing  
4 parental consent, or a court order, as prescribed by Subchapter  
5 C of this chapter;

6           "(3) provide the information for which spaces are provided  
7 in the application for a marriage license; and,

8           "(4) take the oath printed on the application and sign the  
9 application before the county clerk."

10          Sec. 3. Subsection (b), Section 1.03, Family Code, as  
11 amended, is amended to read as follows:

12          "(b) The application form shall contain:

13               "(1) a heading entitled 'Application for Marriage  
14 License, \_\_\_\_\_ County, Texas';

15               "(2) spaces for each applicant's full name (including  
16 the woman's maiden surname), address, social security number, if  
17 any, date of birth, and place of birth (including city, county,  
18 and state)~~[and race]~~;

19               "(3) a space for indicating the document tendered  
20 by each applicant as proof of identity and age;

21               "(4) spaces for indicating whether each applicant  
22 has been divorced within the last 30 days~~[and if so, whether~~  
23 ~~the applicant has been divorced during the six-month period~~  
24 ~~preceding the date of the application]~~;

25               "(5) printed boxes for the applicant to check 'true'  
26 or 'false' in response to the following statement: 'I am not

1 presently married.':

2 "(6) printed boxes for each applicant to check 'true'  
3 or 'false' in response to the following statement: 'The other  
4 applicant is not related to me as:

5 "(A) an ancestor or descendant, by blood or  
6 adoption:

7 "(B) a brother or sister, of the whole or half  
8 blood or by adoption; or

9 "(C) a parent's brother or sister of the whole  
10 of half blood.':

11 ~~[(5) a printed oath reading: 'I SOLEMNLY SWEAR (OR~~  
12 ~~AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS~~  
13 ~~CORRECT, THAT I AM NOT PRESENTLY MARRIED, AND THAT I AM NOT RELATED~~  
14 ~~TO THE OTHER APPLICANT WITHIN THE DEGREES PROHIBITED BY LAW.']~~

15 "(7) a printed oath reading: 'I SOLEMNLY SWEAR (OR  
16 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS  
17 CORRECT.':

18 "(8) [(6)] spaces immediately below the printed oath  
19 for the applicants' signatures;

20 ~~[(7) the jurate of the county clerk;]~~

21 "(9) a certificate of the county clerk that the  
22 applicants made the oath and the date and place that it was made  
23 (or that the applicant did not appear personally but the  
24 prerequisites for the license have been fulfilled as prescribed  
25 by Section 1.05 of this code);

26 "(10) [(8)] spaces for indicating the date of the

1 marriage and the county in which it is performed; and

2 "(11) [~~49~~] a space for the address to which the  
3 applicants desire the executed license to be mailed."

4 Sec. 4. Section 1.05, Family Code, is amended to read as  
5 follows:

6 "Sec. 1.05. ABSENT APPLICANT. (a) If only one of the  
7 applicants is able to appear personally before the county clerk  
8 to apply for a marriage license, any adult person or the other  
9 applicant may apply on behalf of the absent applicant.

10 "(b) The person applying on behalf of an absent applicant  
11 shall present to the clerk:

12 "(1) the affidavit of the absent applicant as  
13 prescribed by Subsection (c) of this section;

14 "(2) proof of the identity and age of the absent  
15 applicant as provided by Section 1.04 of this code;

16 "(3) a medical examination certificate or an exemption  
17 order for the absent applicant as prescribed by Subchapter B of  
18 this chapter; and

19 "(4) if required, the documents establishing parental  
20 consent, or a court order, for the absent applicant as prescribed  
21 by Subchapter C of this chapter.

22 "(c) The affidavit of an absent applicant must include:

23 "(1) the absent applicant's full name (including the  
24 maiden surname, if applicable), address, date of birth, place of  
25 birth (including city, county, and state), citizenship, and social  
26 security number, if any;

1           "(2) a declaration that the absent applicant is not  
2 presently married (unless to the other applicant and they wish  
3 to marry again):

4           "(3) a declaration that the other applicant is not  
5 related to the absent applicant as:

6                 "(A) an ancestor or descendant, by blood or  
7 adoption:

8                 "(B) a brother or sister, of the whole or half  
9 blood or by adoption; or

10                "(C) a parent's brother or sister of the whole  
11 or half blood:

12           "(4) a declaration that the absent applicant desires  
13 to marry, and the name, age, and address of the person to whom  
14 the absent applicant desires to be married:

15           "(5) the approximate date on which the marriage is  
16 to occur:

17           "(6) the reason the absent applicant is unable to  
18 appear personally before the county clerk for the issuance of the  
19 license: and

20           "(7) if the absent applicant will be unable to attend  
21 the ceremony, the appointment of any adult, except the other  
22 applicant, to act as proxy for the purpose of participating in  
23 the ceremony. ~~[Any information pertaining to an applicant, other~~  
24 ~~than the applicant's name, may be omitted from the application,~~  
25 ~~and any formality required by Subchapters A, B, and D of this~~  
26 ~~chapter may be waived on the county judge's written order, issued~~



~~for good cause shown, and submitted to the county clerk at the  
time the application is made.] "~~

Sec. 5. Section 1.06, Family Code, is amended to read as follows:

"Sec. 1.06. EXECUTION OF APPLICATION. (a) The county clerk shall:

"(1) determine that all necessary information (other than the date of the marriage ceremony, the county in which it is conducted, and the name of the person who performs the ceremony) is entered in the application and that all necessary documents are submitted to him;

"(2) administer the oath to each applicant appearing before the clerk;

"(3) have each applicant appearing before the clerk sign the application in his presence; and

"(4) execute his certificate on the application.

"(b) A person appearing before the clerk on behalf of an absent applicant is not required to take the oath on behalf of the absent applicant."

Sec. 6. Section 1.07, Family Code, is amended to read as follows:

"Sec. 1.07. ISSUANCE OF LICENSE. (a) The county clerk may not issue a license to the applicants if:

"(1) either applicant fails to provide information as required by Sections 1.02 and 1.05 of the code;

"(2) either applicant fails to submit proof of age

1 and identity:

2 "(3) either applicant is under 16 years of age and the  
3 waiver of age requirements has not been ordered under the  
4 provisions of Section 1.51(c) of this code:

5 "(4) either applicant fails to comply with the requirements  
6 of Subchapter B of this chapter: or

7 "(5) either applicant checks 'false' in response to a  
8 statement in the application, except as provided in Subsection  
9 (b) of this section, or fails to make a required declaration in  
10 an affidavit required of an absent applicant.

11 "(b) If an applicant checks 'false' in response to the  
12 statement 'I am not presently married,' the county clerk shall  
13 inquire as to whether or not the applicant is presently married  
14 to the other applicant. If the applicant states that he is  
15 presently married to the other applicant, the county clerk shall  
16 record that statement on the license prior to the administration  
17 of the oath. The county clerk may not refuse to issue a license  
18 on the ground that the applicants are already married to each  
19 other.

20 "(c) [↔] On the proper execution of the application, the  
21 clerk shall prepare the license. On the reverse side of the  
22 license he shall enter the names of the licensees and, for each  
23 of them, the date of the medical examination or the fact that an  
24 exemption was obtained, and the name of the person appointed to  
25 act as proxy for an absent applicant, if any.

26 ~~"(b) The county clerk shall not issue the license to the~~

~~applicants if he knows any fact which would make the marriage void or voidable under this code.~~

~~"(e) If it is revealed that either applicant has been divorced during the six-month period preceding the date of the application, the county clerk shall not issue the license unless it is shown that the subsequent marriage within the six-month period is permitted under Section 3.66 of this code."~~

Sec. 7. Subchapter C, Chapter 1, Family Code, is amended to read as follows:

"SUBCHAPTER C. UNDERAGE APPLICANTS

"Sec. 1.51. AGE REQUIREMENTS: GENERAL RULES. (a) A person [male] under 16 years of age may not marry. [~~A female under 14 years of age may not marry.~~]

"(b) Except with parental consent as prescribed by Section 1.52 of this code, with a court order as prescribed by Section 1.53 of this code, or with a waiver of age requirements as prescribed by Subsection (c) of this section, the county clerk shall not issue a marriage license if either [the male] applicant is under 18 [19] years of age [~~or if the female applicant is under 16 years of age~~].

"(c) Upon petition in a district court in the name of the person seeking the waiver, the court may order the waiver of the age requirement prescribed in Subsection (a) for good cause shown."

"Sec. 1.52. UNDERAGE APPLICANT: PARENTAL CONSENT. (a) If the [male] applicant is 16 years of age or older but under 18 [19] years of age, [~~or if the female applicant is 14 years of age~~

1 ~~or older but under 18 years of age~~] the county clerk shall issue  
2 the license if parental consent is given as prescribed by this  
3 section.

4       "(b) Parental consent must be evidenced by a written  
5 declaration on a form supplied by the county clerk in which the  
6 person consents to the marriage and swears that he or she is a  
7 parent (when there is no judicially designated managing conservator  
8 or guardian of the applicant's person) or a judicially designated  
9 managing conservator or guardian (whether an individual, authorized  
10 agency, or court) of the applicant's person [~~natural guardian of~~  
11 ~~the person (when there is no judicially designated custodian or~~  
12 ~~guardian of the person of the applicant), an actual custodian of~~  
13 ~~the person (when there is no natural guardian of the person or~~  
14 ~~judicially designated custodian or guardian of the person of the~~  
15 ~~applicant), or a judicially designated custodian or guardian of~~  
16 ~~the person (whether an individual, authorized agency, or court)~~  
17 ~~of the applicant)].~~

18       "(c) Except as otherwise provided by this section, consent  
19 must be acknowledged before the county clerk at the time the  
20 application is made for the marriage license.

21       "(d) If the person giving parental consent [~~consenting~~  
22 ~~parent or guardian~~] resides in another state [~~or territory of the~~  
23 ~~United States~~], the consent may be acknowledged before an officer  
24 authorized to issue marriage licenses in that state [~~or territory~~].

25       "(e) If the person giving parental consent [~~consenting~~  
26 ~~parent or guardian~~] is unable [~~to be present~~] because of illness

1 or incapacity to comply with the provisions of Subsection (c) or  
2 (d) of this section, the consent may be acknowledged before any  
3 officer authorized to take acknowledgments; but it must be  
4 accompanied by a physician's affidavit stating that the person  
5 giving parental consent [~~parent or guardian~~] is unable to be  
6 present because of illness or incapacity.

7 "Sec. 1.53. UNDERAGE APPLICANT: COURT ORDER. (a) A  
8 person who is 16 years of age or older but under 18 years of age,  
9 may petition in his own name in a district court for an order  
10 granting permission to marry.

11 "(b) The petition must be filed in the county where a  
12 parent resides if a managing conservator or a guardian of the  
13 person has not been appointed. If a managing conservator or a  
14 guardian of the person has been appointed, the petition must be  
15 filed in the county where the managing conservator or the guardian  
16 of the person resides. If no person authorized to consent to  
17 marriage for the child resides in this state, the petition must  
18 be filed in the county where the child lives.

19 "(c) The petition shall include a statement of the reasons  
20 the child desires to marry, whether each parent is living or dead,  
21 the name and residence address of each living parent, and whether  
22 or not a managing conservator or a guardian of the person has  
23 been appointed for the child.

24 "(d) Process shall be served as in other civil cases on  
25 each living parent of the child, or if a managing conservator or  
26 a guardian of the person has been appointed, on the managing

1 conservator or guardian of the person.

2 "(e) The court shall appoint a guardian ad litem to  
3 represent the child in the proceeding and to speak for or against  
4 the petition in the manner he believes to be in the best interest  
5 of the child. The court shall prescribe a fee to be paid by the  
6 child for the services of the guardian ad litem; and the fee shall  
7 be collected as are other costs of the proceeding.

8 "(f) If, after a hearing, the court believes marriage to  
9 be in the best interest of the child, it shall make an order  
10 granting the child permission to marry."

11 Sec. 8. Section 1.82, Family Code, is amended to read as  
12 follows:

13 "Sec. 1.82. CEREMONY. (a) On receiving [~~possession of~~  
14 ~~the~~] an unexpired marriage license, any authorized person may  
15 conduct the marriage ceremony.

16 "(b) A person unable to appear for the ceremony may assent  
17 to marriage by the appearance of a proxy appointed in the affidavit  
18 prescribed by Section 1.05 of this code."

19 Sec. 9. Section 1.92, Family Code, as amended, is amended  
20 to read as follows:

21 "Sec. 1.92. DECLARATION AND REGISTRATION. (a) A  
22 declaration of informal marriage shall be executed on a form  
23 prescribed by the Bureau of Vital Statistics of the State  
24 Department of Health and provided by the county clerk. Each party  
25 to the declaration shall provide the information required [~~for~~  
26 ~~which spaces are provided~~] in the form.

"(b) The declaration form shall contain:

"(1) a heading entitled 'Declaration and Registration of Informal Marriage, \_\_\_\_\_ County, Texas';

"(2) spaces for each party's full name (including the woman's maiden surname), address, date of birth, place of birth (including city, county, and state), and social security number, if any [see];

"(3) a space for indicating the type of document tendered by each party as proof of age and identity;

"(4) printed boxes for each party to check 'true' or 'false' in response to the following statement: 'The other party is not related to me as:

"(A) an ancestor or descendant, by blood or adoption;

"(B) a brother or sister, of the whole or half blood or by adoption; or

"(C) a parent's brother or sister of the whole or half blood.;

~~["(3) a printed declaration reading: 'We, the undersigned declare that we are married to each other by virtue of the following facts: On or about \_\_\_\_\_ we agreed to be married, and after that date we lived together in this state as husband and wife and in this state represented to others that we were married.'"]~~

"(5) ~~["(4)"]~~ a printed declaration and oath reading:  
'I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED

TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT  
(DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED  
TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO  
OTHERS THAT WE WERE MARRIED, SINCE THE DATE OF MARRIAGE TO THE  
OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS  
DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN  
IS CORRECT. ~~[-I SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE  
DECLARATION IS TRUE, THAT THE INFORMATION I HAVE GIVEN HEREIN IS  
CORRECT, THAT I AM NOT PRESENTLY MARRIED TO ANY OTHER PERSON, AND  
THAT I AM NOT RELATED TO THE OTHER PARTY TO THE DECLARATION WITHIN  
THE DECREES PROHIBITED BY LAW.];~~

"(6) [~~45~~] spaces immediately below the printed  
declaration and oath for the parties' signatures; and

"(7) [~~46~~] a certificate of the county clerk that  
the parties [~~applicant~~] made the declaration and oath and the  
place and date it was made.

"(c) If either party [~~was underage as provided in Section  
2.41 of this code at the time of the marriage and if either  
party~~] is [~~still~~] underage at the time of filing a declaration,  
the declaration shall have attached an acknowledged consent  
executed by a parent [~~the parents~~] of each underage person."

~~[(d) The county clerk shall  
(1) determine that all necessary information is entered  
on the form  
(2) administer the oath to each party  
(3) have each party sign the declaration in his~~



1 ~~presence, and~~

2 ~~(4) execute his certificate on the declaration~~

3 ~~(e) The county clerk shall record the declaration, deliver~~  
4 ~~the original of the declaration to the parties, and transmit a~~  
5 ~~copy to the Bureau of Vital Statistics~~

6 ~~(f) A declaration executed under this section is prime~~  
7 ~~evidence of the marriage]~~

8 Sec. 10. Chapter 1, Family Code, as amended, is amended  
9 by adding Sections 1.93, 1.94, and 1.95 to read as follows:

10 "Sec. 1.93. PROOF OF IDENTITY AND AGE. The county clerk  
11 shall require proof of the identity and age of each party to the  
12 declaration to be established by a certified copy of the party's  
13 birth certificate or by some certificate, license, or document  
14 issued by this state or another state, the United States, or a  
15 foreign government.

16 "Sec. 1.94. RECORDING OF DECLARATION. (a) The county  
17 clerk shall:

18 "(1) determine that all necessary information is  
19 entered in the declaration form and that all necessary documents  
20 are submitted to him;

21 "(2) administer the oath to each party to the  
22 declaration;

23 "(3) have each party sign the declaration in his  
24 presence; and

25 "(4) execute his certificate to the declaration.

26 "(b) The county clerk may not certify or record the

1 declaration if:

2 "(1) either party fails to supply any information,  
3 or to provide any document, required by this subchapter;

4 "(2) either party is under 16 years of age and waiver  
5 of the age requirement has not been ordered; or

6 "(3) either party checks 'false' in response to the  
7 statement of relationship to the other party.

8 "(c) On execution of the declaration, the county clerk  
9 shall record the declaration and all documents submitted with the  
10 declaration or note a summary of them on the declaration form,  
11 deliver the original of the declaration to the parties, and send  
12 a copy to the Bureau of Vital Statistics.

13 "(d) A declaration recorded as provided in this section  
14 is prima facie evidence of the marriage of the parties.

15 "Sec. 1.95. VIOLATION BY COUNTY CLERK. A county clerk or  
16 a deputy county clerk who violates any provision of this subchapter  
17 is guilty of a misdemeanor and on conviction is punishable by a  
18 fine of not less than \$200 nor more than \$500."

19 Sec. 11. Section 2.41, Family Code, as amended, is amended  
20 to read as follows:

21 "Sec. 2.41. UNDERAGE. (a) The licensed or informal  
22 marriage of persons under 16 years of age, unless a waiver of the  
23 age requirement has been ordered, is voidable and subject to  
24 annulment on the petition of a next friend for the benefit of the  
25 underage party or on the petition of the parent or the judicially  
26 designated managing conservator or guardian (whether an individual,

1 authorized agency, or court) of the person of the underage party.  
 2 A suit filed under this subsection by a next friend must be brought  
 3 within 90 days after the 16th birthday of the underage party, or  
 4 it is barred. A suit by a parent, managing conservator, or  
 5 guardian of the person may be brought at any time before the party  
 6 is 16 years of age, but thereafter must be brought within 90 days  
 7 after the petitioner knew or should have known of the marriage,  
 8 or it is barred. However, in no case may a suit by a parent,  
 9 managing conservator, or guardian of the person be brought under  
 10 this subsection after the underage person has reached 18 years  
 11 of age.

12       "(b) [~~4e~~] The licensed or informal marriage of a person  
 13 [~~male~~] 16 years of age or older but under 18 [~~49~~] years of age [~~or a female 14 years of age or older but under 18 years of age~~],  
 14 without parental consent as provided in Section [~~Sections~~] 1.52  
 15 or [~~and~~] 1.92 of this code or without a court order as provided  
 16 by Section 1.53 of this code, is voidable and subject to annulment  
 17 [~~at the discretion of the court~~] on the petition of a next friend  
 18 for the benefit of the underage party, or on the petition of the  
 19 parent or the judicially designated managing conservator or  
 20 guardian (whether an individual, authorized agency or court) of  
 21 the person of the underage party. A suit filed under this  
 22 subsection by a next friend must be brought within 90 days after  
 23 the date of the marriage, or it is barred. A suit by a parent,  
 24 managing conservator, or guardian of the person must be brought  
 25 within 90 days after the date the petitioner knew or should have  
 26

known of the marriage, or it is barred. However, in no case may a suit by a parent, managing conservator, or guardian of the person be brought under this subsection after the underage person has reached 18 years of age. ~~[However, a suit may not be brought under this subsection more than 90 days after the date of the marriage]~~

"(c) ~~[(\*)]~~ In any suit under this section the marriage is voidable at the discretion of the court sitting without a jury. In exercising its discretion ~~[under this section]~~, the court shall consider all pertinent facts concerning the welfare of the ~~[and best interests of both]~~ parties to the marriage, including whether or not the female is pregnant."

Sec. 12. Section 3.08, Family Code, is amended to read as follows:

"Sec. 3.08. DEFENSES. (a) The defense of recrimination is abolished.

"(b) Condonation~~[, if proved]~~ is a ~~[valid]~~ defense only if the court finds ~~[it is also proved]~~ that there is a reasonable expectation of reconciliation.

"(c) The defense of adultery is abolished."

Sec. 13. Section 3.21, Family Code, is amended to read as follows:

"Sec. 3.21. RESIDENCE--GENERAL RULE. No suit for divorce may ~~[be kept]~~ be maintained unless at the time suit is filed the petitioner or the respondent has been a domiciliary of this state for the preceding ~~six-month~~ ~~[12-month]~~ period and a resident of

1 the county in which the suit is filed for the preceding ninety-day  
2 ~~[six-month]~~ period."

3 Sec. 14. Section 3.22, Family Code, is amended to read as  
4 follows:

5 "Sec. 3.22. ABSENCE ON PUBLIC SERVICE. ~~[RESIDENT WITH OUT~~  
6 ~~OF STATE MILITARY SERVICE.]~~ For the purpose of Section 3.21 of  
7 this code, time spent by a Texas domiciliary in the service of  
8 the armed forces or other service of the United States or of this  
9 state outside this state or the county of residence of the  
10 domiciliary is considered residence in the state and county. [A  
11 ~~resident who has been absent from this state for more than six~~  
12 ~~months in the military, navy or other service of the United~~  
13 ~~States or of this state may sue for divorce in the county where~~  
14 ~~he resided before entering the service.]~~"

15 Sec. 15. Section 3.23, Family Code, is amended to read as  
16 follows:

17 "Sec. 3.23. MILITARY PERSONNEL NOT PREVIOUSLY RESIDENTS.  
18 A person not previously a resident of this state who is serving  
19 in the armed forces of the United States and has been stationed  
20 at one or more military installations in this state for at least  
21 the last six [42] months and at one or more military installations  
22 in a county of this state for at least the last ninety days  
23 ~~[six months]~~ is considered to have been a domiciliary of this  
24 state and a resident of the county for those periods for the  
25 purpose of bringing suit for divorce or annulment or to declare  
26 a marriage void."

1       Sec. 16. Section 3.24, Family Code, is amended to read as  
2 follows:

3       "Sec. 3.24. SUIT BY NONRESIDENT SPOUSE. If one spouse has  
4 been a domiciliary of this state for at least the last ~~six~~ [42]  
5 months, a spouse domiciled in another state or nation  
6 [~~jurisdiction~~] may sue for divorce in the county where the  
7 domiciled spouse is domiciled at the time the petition is filed."

8       Sec. 17. Section 3.25, Family Code, is amended to read as  
9 follows:

10       "Sec. 3.25. SUIT FOR ANNULMENT [SUIT] OR TO DECLARE A  
11 MARRIAGE VOID. (a) A suit for annulment of a marriage or to  
12 declare a marriage void may be maintained in this state only if  
13 the parties were married in this state or if either party is  
14 domiciled in this state.

15       "(b) A suit for annulment of a marriage or to declare a  
16 marriage void is a suit in rem, affecting the status of the parties  
17 to the marriage. Process shall be served as in a suit for  
18 divorce."

19       Sec. 18. Section 3.52, Family Code, is amended to read as  
20 follows:

21       "Sec. 3.52. PLEADINGS. [PLEADINGS, STATEMENT OF FACTS.]  
22 Pleadings of the parties in a suit for divorce or annulment or  
23 to declare a marriage void shall contain allegations of the grounds  
24 relied on substantially in the language of the statute and without  
25 a detailed statement of evidentiary facts. Allegations of grounds  
26 for relief, matters of defense, or facts relied on for temporary

1 relief stated in short and plain terms are not subject to special  
2 exceptions because of form or sufficiency. Except for allegations  
3 relied on for temporary relief, all allegations of evidentiary  
4 facts shall be stricken from the pleadings on the motion of any  
5 party to the suit or by the court on its own motion."

6 ~~[(a) Any pleading praying for a divorce or annulment shall~~  
7 ~~allege the grounds relied on as nearly as possible in the language~~  
8 ~~of the statute and without a detailed statement of the facts.~~

9 ~~(b) The opposing party shall be furnished on request a~~  
10 ~~separate statement of the facts relied on to support a decree.~~  
11 ~~Each fact alleged in the statement shall be considered as denied~~  
12 ~~by the opposing party unless expressly admitted.~~

13 ~~(c) A copy of the statement shall be furnished to the judge~~  
14 ~~but shall not become a part of the record of the case. However,~~  
15 ~~if the court's judgment is appealed on any ground relating to an~~  
16 ~~allegation in the statement, then the statement shall be included~~  
17 ~~in the record on appeal.]~~

18 Sec. 19. Section 3.53, Family Code, is amended to read as  
19 follows:

20 "Sec. 3.53. ANSWER. In a suit for divorce or annulment  
21 or to declare a marriage void, the respondent [defendant] need  
22 not answer upon oath, and the petition shall not be taken as  
23 confessed for want of an answer."

24 Sec. 20. Section 3.54, Family Code, is amended to read as  
25 follows:

26 "Sec. 3.54. COUNSELING. (a) On the filing of a petition

1 for divorce, the clerk shall furnish an availability of counseling  
2 notice to the attorney filing the petition. Except in a suit in  
3 which the respondent is cited by publication, the attorney shall  
4 forward the notice to both parties to the suit and shall certify  
5 to the court that he has complied with the provisions of this  
6 subsection.

7 "(b) The availability of counseling notice shall be printed  
8 on the stationery of the clerk and shall state:

9 "In a divorce suit the court is authorized by law to require  
10 both parties to consult with a marriage counselor or other person  
11 appointed by the court. The counselor's function is to report  
12 to the court whether or not, in the opinion of the counselor,  
13 there exists a reasonable expectation of reconciliation and, if  
14 so, whether further counseling would be beneficial. If you believe  
15 that counseling would be beneficial to you or to the court, you  
16 may ask your attorney to request that the court order consultation  
17 with a counselor.'

18 "(c) [↔] After a petition for divorce is filed, the  
19 court may, in its discretion, direct the parties to counsel with  
20 a person or persons named by the court, who shall submit a written  
21 report to the court before the hearing on the petition.

22 "(d) [↔] In his report, the counselor shall give only  
23 his opinion as to whether there exists a reasonable expectation  
24 of reconciliation of the parties, and if so, whether further  
25 counseling would be beneficial. The sole purpose of the report  
26 is to aid the court in determining whether the suit for divorce



should be continued pending further counseling, and the report shall not be admitted as evidence in the suit. Copies of the report shall be furnished to the parties.

"(e) [~~ee~~] If the court is of the opinion that there exists a reasonable expectation of the parties' reconciliation, the court may by written order continue the proceedings and direct the parties to any person or persons named by the court for further counseling for a period of time fixed by the court not to exceed 60 days, subject to any terms, conditions, and limitations the court deems desirable. The court shall consider the circumstances of the parties, including the needs of the parties' family, and the availability of counseling services, in making its order. At the expiration of the period of time specified by the court, the counselor to whom the parties were directed shall report to the court whether the parties have complied with the court's order. Thereafter, the court shall proceed as in divorce suits generally.

"(f) [~~ee~~] No person who has counseled parties to a suit for divorce under this section is competent to testify in any action involving the parties or their children. The files, records, and other work-products of the counselor are privileged and confidential for all purposes and may not be admitted as evidence in any action involving the parties or their children.

"(g) [~~ee~~] The expenses of counseling may be taxed as costs against either or both parties."

Sec. 21. Section 3.56, Family Code, is amended to read as

1 follows:

2 "Sec. 3.56. INVENTORY AND APPRAISEMENT. At any time during  
3 a suit for divorce or annulment or to declare a marriage void,  
4 a party [either spouse] may, for the preservation of [his or her]  
5 rights, require an inventory and appraisal of all property in  
6 the possession of another party [the other spouse], and may obtain  
7 an injunction restraining another party [the other spouse] from  
8 disposing of the property in any manner."

9 Sec. 22. Section 3.58, Family Code, is amended to read as  
10 follows:

11 "Sec. 3.58. TEMPORARY ORDERS. After a petition for divorce  
12 or annulment or to declare a marriage void is filed, the court  
13 or judge may make temporary orders respecting the property and  
14 parties as deemed necessary and equitable."

15 Sec. 23. Section 3.64, Family Code, is amended to read as  
16 follows:

17 "Sec. 3.64. CHANGE OF NAME. In a decree for divorce or  
18 annulment, the court for good cause shown may change the name of  
19 either party specifically requesting the change. A change of  
20 name does not release a person from any liability incurred in a  
21 previous name or defeat any right which the person held in a  
22 previous name. [DECREE. The court shall base its decree for  
23 divorce or annulment on full and satisfactory evidence.]"

24 Sec. 24. Sections 3.65 and 3.66, Family Code, are amended  
25 to read as follows:

26 "Sec. 3.65. COSTS. In a suit for divorce or annulment

~~[or to]~~ or to declare a marriage void, the court may award costs to any ~~[either]~~ party as it deems reasonable. However, costs may not be adjudged against a party against whom a divorce is granted under Section 3.07 of this code.

"Sec. 3.66. REMARRIAGE. Neither party to a divorce may marry a third party for a period of thirty days ~~[six months]~~ immediately following the date the divorce is decreed, but the parties divorced may marry each other at any time. ~~[The court granting the divorce for good cause shown, may at the time of the divorce decree or thereafter waive the prohibition of this section as to either or both parties.]~~"

Sec. 25. Section 5.03, Family Code, is amended to read as follows:

"Sec. 5.03. RECORDATION OF SEPARATE PROPERTY. A subscribed and acknowledged schedule of a spouse's separate property may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property is located. As to real property, a schedule of a spouse's separate property is not constructive notice to ~~[void or against]~~ a good faith purchaser for value or a creditor without actual notice unless the instrument is acknowledged and recorded in the deed records of the county in which the real property is located."

Sec. 26. Subsections (b) and (c), Section 5.22, Family Code, are amended to read as follows:

"(b) If community property subject to the sole management,

control, and disposition of one spouse is mixed or combined with community property subject to the sole management, control, and disposition of the other spouse, then the mixed or combined community property is subject to the joint management, control, and disposition of the spouses, unless the spouses provide otherwise by power of attorney in writing or other agreement [~~in writing~~].

"(c) Except as provided in Subsection (a) of this section, the community property is subject to the joint management, control, and disposition of the husband and wife, unless the spouses provide otherwise by power of attorney in writing or other agreement [~~in writing~~]."

Sec. 27. Section 5.24, Family Code, is amended to read as follows:

"Sec. 5.24. PROTECTION OF THIRD PERSONS. [~~PRESUMPTION.~~]  
(a) During marriage, property is presumed to be subject to the sole management, control, and disposition of a spouse if it is held in his or her name, as shown by muniment, contract, deposit of funds, or other evidence of ownership, or if it is in his or her possession and is not subject to such evidence of ownership.

"(b) A third person dealing with a spouse is entitled to rely (as against the other spouse or anyone claiming from that spouse) on that spouse's authority to deal with the property if:

"(1) the property is presumed to be subject to the sole management, control, and disposition of the spouse; and

"(2) the person dealing with the spouse:

"(A) is not a party to a fraud upon the other spouse or another person; and

"(B) does not have actual or constructive notice of the spouse's lack of authority."

~~[(e) As to personal property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this code, or a partition or exchange agreement under Section 5.42 of this code, shall not be deemed constructive notice of the schedule, order, marital property agreement, or partition or exchange agreement for the purposes of Subsection (b)(2)(B) of this section. As to real property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this code, or a partition or exchange agreement under Section 5.42 of this code, in the deed records of the county in which the real property is located is constructive notice for the purposes of Subsection (b)(2)(B) of this section.]~~

Sec. 28. Section 5.25, Family Code, is amended to read as follows:

"Sec. 5.25. UNUSUAL CIRCUMSTANCES. (a) If (1) a spouse is unable to manage, control, or dispose of the community property subject to his or her sole or joint management, control, and disposition, (2) a spouse disappears and his or her location remains unknown to the other spouse, except under circumstances

1 in which Section 5.26 of this code is applicable, (3) a spouse  
 2 permanently abandons the other, or (4) the spouses are permanently  
 3 separated, then not less than 60 days thereafter the capable  
 4 spouse, or the remaining spouse, or the abandoned spouse, or  
 5 either spouse in the case of permanent separation, may file a  
 6 sworn petition stating the facts that make it desirable for the  
 7 petitioning spouse to manage, control, and dispose of community  
 8 property (described or defined in the petition) that would  
 9 otherwise be subject to the sole or joint management, control,  
 10 and disposition of the other.

11 "(b) The petition shall be filed in a district court of  
 12 the county in which the ~~petitioner~~ [~~petitioning spouse~~] resided  
 13 at the time the incapacity or separation began, or the abandonment  
 14 or disappearance occurred. If both spouses are nonresidents of  
 15 the state at that time, the petition shall be filed in the district  
 16 court of any county in which any part of the described or defined  
 17 community property is located.

18 "(c) The court may appoint an attorney for the suit for  
 19 the respondent and shall award a reasonable fee for the attorney's  
 20 services as a part of the costs of the suit.

21 "(d) [↔] A notice stating that the petition has been  
 22 filed and specifying the date of the hearing, accompanied by a  
 23 copy of the petition, shall be issued and served on the attorney  
 24 for the suit, if one is appointed, or, if an attorney is not  
 25 appointed, on the respondent [~~spouse~~] as in other cases.

26 "(e) [↔] If the residence of the respondent is unknown,

1 notice shall be published in a newspaper of general circulation  
 2 published in the county in which the petition was filed. If that  
 3 county has no newspaper of general circulation, ~~[then]~~ notice  
 4 shall be published in a newspaper of general circulation in an  
 5 adjacent county or in the nearest county in which a newspaper of  
 6 general circulation is published. The notice shall be published  
 7 once a week for two consecutive weeks before the hearing, but the  
 8 first publication shall not be less than 20 days before the date  
 9 set for the hearing.

10 "(f) ~~[(e)]~~ After hearing the evidence, the court, on terms  
 11 it deems just and equitable, shall enter an order describing or  
 12 defining the community property at issue that will be subject to  
 13 the management, control, and disposition of each spouse during  
 14 marriage. ~~[(e)] In the exercise of its equity powers, the~~ The  
 15 court may impose any conditions and restrictions it deems necessary  
 16 to protect the rights of the respondent, ~~[other spouse. The court~~  
 17 ~~may]~~ require a bond conditioned on the faithful administration  
 18 of the property, ~~[proceeds]~~ and ~~[or may]~~ require payment of all  
 19 or a portion of the proceeds of sale of the property to the  
 20 registry of the court, to be disbursed in accordance with the  
 21 court's further directions.

22 "(g) ~~[(f)]~~ The jurisdiction of the court is continuing,  
 23 and on motion of either spouse, after notice has been given in  
 24 the same manner that notice is given under Subsection (d) or (e)  
 25 ~~[(e) or (f)]~~ of this section, the court shall amend or vacate the  
 26 original order if:

"(1) the incapable spouse's capacity is restored;

"(2) the spouse who disappeared reappears; or

"(3) the abandonment or permanent separation ends.

"(b) ~~[(e)]~~ An order authorized by Subsection (f) ~~[(e)]~~ of this section affecting real property is not constructive notice to ~~to~~ ~~void as against~~ a good faith purchaser for value or ~~against~~ a creditor without actual notice unless the order is recorded in the deed records of the county in which the real property is located."

~~[(e)] This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.~~

Sec. 29. Section 5.26, Family Code, as added, is amended to read as follows:

"Sec. 5.26. SPOUSE MISSING ON PUBLIC SERVICE. ~~[(CIRCUMSTANCE OF PERSON MISSING IN ACTION OR PRISONER OF WAR)]~~ (a) If a spouse is reported by an executive department of the United States ~~the United States Department of Defense~~ to be a prisoner of war or missing on the public service of the United States ~~in action~~, then not less than six months thereafter the spouse of the prisoner of war or missing person ~~person missing in action~~ may file a sworn petition stating the facts that make it desirable for the petitioner ~~petitioning spouse~~ to manage, control, and dispose of the community property (described or defined in the petition) that would otherwise be subject to the sole or joint management, control, and disposition of the other.

"(b) The petition shall be filed in the district court of



1 the county in which the ~~petitioner~~ ~~[petitioning spouse]~~ resided  
2 at the time the ~~[United States Department of Defense]~~ report was  
3 made. If both spouses ~~were~~ ~~[are]~~ nonresidents of the state at  
4 that time, the petition shall be filed in the district court of  
5 any county in which any part of the described or defined property  
6 is located.

7 "(c) The court shall appoint an attorney ~~for the suit for~~  
8 ~~the respondent~~ ~~[ad-item-for-the-prisoner-of-war-or-person-missing~~  
9 ~~in action]~~ and shall allow him a reasonable fee for his services  
10 to be taxed as a part of the costs.

11 "(d) A notice stating that the petition has been filed and  
12 specifying the date of the hearing, accompanied by a copy of the  
13 petition, shall be issued and served on the attorney ~~[ad-item]~~  
14 representing ~~the~~ respondent ~~[spouse]~~ as in other cases.

15 "(e) After hearing the evidence, the court, on terms it  
16 deems just and equitable, shall enter an order describing or  
17 defining the community property at issue that will be subject to  
18 the management, control, and disposition of each spouse during  
19 marriage. ~~[(h) In the exercise of its equity powers, the]~~ The  
20 court may impose any conditions and restrictions it deems necessary  
21 to protect the rights of the ~~respondent~~ ~~[other spouse]~~ ~~[the~~  
22 ~~court may]~~ require a bond conditioned on ~~the~~ faithful  
23 administration of the ~~property~~ and ~~[proceeds or may]~~ require  
24 payment of all or a portion of the proceeds ~~of sale of the property~~  
25 to the registry of the court, to be disbursed in accordance with  
26 the court's further directions.

"(f) The jurisdiction of the court is continuing, and on motion of either spouse, after notice stating that the motion has been filed and specifying the date of the hearing, accompanied by a copy of the motion, has been issued and served on the respondent ~~[oppose]~~ as in other cases, the court shall amend or vacate the original order if the spouse who was a prisoner of war or missing ~~[in action]~~ returns.

"(g) An order authorized by Subsection (e) of this section affecting real property is not constructive notice to ~~[void as against]~~ a good faith purchaser for value or ~~[against]~~ a creditor without actual notice unless the order is recorded in the deed records of the county in which the real property is located."

~~[(1) This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.]~~

Sec. 30. Chapter 5, Family Code, is amended by adding Section 5.27 to read as follows:

"Sec. 5.27. REMEDIES CUMULATIVE. The remedies provided in Sections 5.25 and 5.26 of this code are cumulative of other rights, powers, and remedies afforded spouses by law."

Sec. 31. Subsection (e), Section 5.41, Family Code, is amended to read as follows:

"(e) A marital property agreement may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property affected or to be affected is located. As to real property, a marital property agreement is not constructive notice to ~~[void]~~

1 ~~as against~~ a good faith purchaser for value or a creditor without  
2 actual notice unless the instrument is acknowledged and recorded  
3 in the county in which the real property is located."

4 Sec. 32. Subsection (d), Section 5.42, Family Code, is  
5 amended to read as follows:

6 "(d) A partition or exchange agreement may be recorded in  
7 the deed records of the county in which the parties, or one of  
8 them, reside and in the county or counties in which the real  
9 property affected is located. As to real property, a partition  
10 or exchange agreement is not constructive notice to ~~not~~  
11 ~~against~~ a good faith purchaser for value or a creditor without  
12 actual notice unless the instrument is acknowledged and recorded  
13 in the county in which the real property is located."

14 Sec. 33. Subsection (b), Section 5.83, Family Code, is  
15 amended to read as follows:

16 "(b) The petition shall be filed in a district court of  
17 the county in which any portion of the property is located. The  
18 court may appoint an attorney for the suit for the respondent and  
19 shall award a reasonable fee for his services as a part of the  
20 costs of the suit. Notice shall be issued and served in the  
21 manner provided in Subsection (d) or (e) ~~(c) or (d)~~ of Section  
22 5.25 of this code."

23 Sec. 34. Chapter 5, Family Code, as amended, is amended  
24 by adding a Section 5.831 to read as follows:

25 "Sec. 5.831. SEPARATE HOMESTEAD: SPOUSE MISSING ON PUBLIC  
26 SERVICE: SALE WITHOUT JOINDER. (a) If the homestead is the

1 separate property of a spouse and the other spouse is reported  
 2 by an executive department of the United States to be a prisoner  
 3 of war or missing on public service of the United States, not  
 4 less than six months thereafter the owner may file a sworn petition  
 5 giving a description of the property and stating the facts that  
 6 make it desirable for the owner to sell, convey, or encumber the  
 7 homestead without the joinder of the other spouse.

8 "(b) The petition shall be filed in a district court of  
 9 the county in which any portion of the property is located. The  
 10 court shall appoint an attorney for the suit for the respondent  
 11 and shall award a reasonable fee for the attorney's service as  
 12 a part of costs of the suit. Notice shall be issued and served  
 13 in the manner provided in Subsection (d) of Section 5.26 of this  
 14 code.

15 "(c) After hearing the evidence, the court shall enter an  
 16 order it deems just and equitable with respect to sale, conveyance,  
 17 or encumbrance of the homestead."

18 Sec. 35. Section 5.85, Family Code, is amended to read as  
 19 follows:

20 "Sec. 5.85. COMMUNITY HOMESTEAD: UNUSUAL CIRCUMSTANCES;  
 21 SALE WITHOUT JOINDER. (a) If the homestead is the community  
 22 property of the spouses and if (1) a spouse is incompetent (whether  
 23 judicially declared incompetent or not), (2) a spouse disappears  
 24 and his or her location remains unknown to the other spouse, (3)  
 25 a spouse permanently abandons the homestead and the other spouse,  
 26 or (4) a spouse permanently abandons the homestead and the spouses

1 are permanently separated, ~~[then]~~ not less than 60 days thereafter  
2 the competent spouse, the remaining spouse, the abandoned spouse,  
3 or the spouse who has not abandoned the homestead in a case of  
4 permanent separation, who desires to sell, convey, or encumber  
5 the community homestead of the spouses, may file a sworn petition  
6 giving a description of the property and stating the facts that  
7 make it desirable for the petitioner to sell, convey, or encumber  
8 the homestead without the joinder of the other spouse.

9       "(b) The petition shall be filed in a district court of  
10 the county in which any portion of the property is located. ~~The~~  
11 ~~court may appoint an attorney for the suit for the respondent and~~  
12 ~~shall award a reasonable fee for the attorney's service as a part~~  
13 ~~of costs of the suit.~~ Notice shall be issued and served in the  
14 manner provided in Subsection ~~(d) or (e)~~ ~~[(e) or (d)]~~ of Section  
15 5.25 of this code.

16       "(c) After hearing the evidence, the court, ~~[shall enter~~  
17 ~~an order granting relief if it appears necessary or advisable~~  
18 ~~and on terms the court deems advisable]~~ on terms it deems just  
19 and equitable, shall enter an order describing or defining the  
20 community property at issue that will be subject to the management,  
21 control, and disposition of each spouse during marriage. ~~[(e)]~~  
22 ~~In the exercise of its equity powers, the]~~ The court may impose  
23 any conditions and restrictions it deems necessary to protect the  
24 rights of the respondent, ~~[other spouse, The court may]~~ require  
25 a bond conditioned on the faithful administration of the property,  
26 and ~~[proceeds or may]~~ require payment of all or a portion of the

1 proceeds of sale of the property to the registry of the court,  
2 to be disbursed in accordance with the court's further directions."

3 Sec. 36. Section 5.86, Family Code, is amended to read as  
4 follows:

5 "Sec. 5.86. REMEDIES AND POWERS CUMULATIVE. The remedies  
6 provided by Sections 5.83, 5.831, 5.85, and 5.87 [~~and 5.85~~] of  
7 this code, and the powers of a spouse under Sections 5.82 and  
8 5.84 of this code, are cumulative of the other rights, powers,  
9 and remedies [~~otherwise~~] afforded the spouses by law."

10 Sec. 37. Section 5.87, Family Code, as amended, is amended  
11 to read as follows:

12 "Sec. 5.87. COMMUNITY HOMESTEAD; SPOUSE MISSING ON PUBLIC  
13 SERVICE; [CIRCUMSTANCE OF PERSON MISSING IN ACTION OR PRISONER  
14 OF WAR] SALE WITHOUT JOINDER. (a) If the homestead is the  
15 community property of the spouses and if a spouse is reported by  
16 an executive department of the United States [~~the United States~~  
17 ~~Department of Defense~~] to be a prisoner of war or missing on  
18 public service of the United States, [~~in action then~~] not less  
19 than six months thereafter the spouse of the prisoner of war or  
20 missing person [~~person missing in action~~], who desires to sell,  
21 convey, or encumber the community homestead of the spouses, may  
22 file a sworn petition giving a description of the property and  
23 stating the facts that make it desirable for the petitioning  
24 spouse to sell, convey, or encumber the homestead without the  
25 joinder of the other spouse.

26 "(b) The petition shall be filed in a district court of

1 the county in which any portion of the property is located. The  
 2 court shall appoint an attorney for the suit for the respondent  
 3 ~~[ad litem for the prisoner of war or person missing in action]~~  
 4 and shall award ~~[allow him]~~ a reasonable fee for the attorney's  
 5 service ~~[his services to be taxed]~~ as a part of the costs of the  
 6 suit. Notice shall be issued and served in the manner provided  
 7 in Subsection (d) of Section 5.26 of this code.

8 "(c) After hearing the evidence, the court shall enter an  
 9 order granting relief if it appears necessary or advisable, and  
 10 on terms the court deems advisable. The court may impose any  
 11 conditions and restrictions it deems necessary to protect the  
 12 rights of the respondent, may require a bond conditioned on the  
 13 faithful administration of the property, or may require payment  
 14 of all or a portion of the proceeds of sale of the property to  
 15 the registry of the court to be disbursed in accordance with the  
 16 court's further directions.

17 ~~[(d) In the exercise of its equity powers, the court may~~  
 18 ~~impose any conditions and restrictions it deems necessary to~~  
 19 ~~protect the rights of the other spouse. The court may require~~  
 20 ~~a bond conditioned on faithful administration of the proceeds or~~  
 21 ~~may require payment of all or a portion of the proceeds to the~~  
 22 ~~registry of the court to be disbursed in accordance with the~~  
 23 ~~court's further directions.~~

24 ~~[(e) This section is cumulative of the rights, powers and~~  
 25 ~~remedies otherwise afforded the spouses by law.]~~

26 Sec. 38. Subsection (a), Section 2.46, Family Code, is

1 amended to read as follows:

2       "(a) On the suit of a party to a marriage, the marriage  
3 is voidable and subject to annulment if:

4               "(1) the other party was divorced from a third party  
5 within the thirty day ~~[six month]~~ period preceding the day of the  
6 marriage ceremony~~[, and the prohibition against marrying again~~  
7 ~~within the six month period was not waived under Section 3.66 of~~  
8 ~~this code];~~

9               "(2) at the time of the marriage ceremony, the  
10 petitioner did not know, and a reasonably prudent person would  
11 not have known, of the divorce; and

12               "(3) since the petitioner discovered, or a reasonably  
13 prudent person would have discovered, the fact of the divorce,  
14 the petitioner has not voluntarily cohabited with the other party."

15       Sec. 39. This Act takes effect January 1, 1974.

16       Sec. 40. The importance of this legislation and the crowded  
17 condition of the calendars in both houses create an emergency and  
18 an imperative public necessity that the constitutional rule  
19 requiring bills to be read on three several days in each house  
20 be suspended.



H.B. No. 103

I hereby certify that H.B. No. 103 was passed by the House on May 19, 1973, by the following vote: Yeas 130, Nays 0 and 3 present not voting; and that the House adopted H.C.R. No. 219 authorizing certain corrections in H.B. No. 103 on May 26, 1973.

Chief Clerk of the House

I hereby certify that H.B. No. 103 was passed by the Senate on May 25, 1973, by the following vote: Yeas 30, Nays 1; and that the Senate adopted H.C.R. No. 219 authorizing certain corrections in H.B. No. 103 on May 28, 1973.

Secretary of the Senate

APPROVED: 6-15-73

Date \_\_\_\_\_

Signed

Governor

eff: Jan 1, 1974

FILED IN THE OFFICE OF THE SECRETARY OF STATE  
4:30 p.m. 2008

JUN 16 1973

Secretary of State

MAY 21 1973 Received from the House  
\*MAY 22 1973 Read, referred to Committee on HUMAN RESOURCES

MAY 24 1973 Reported favorably. \_\_\_\_\_  
\_\_\_\_\_ Reported adversely, with favorable Committee Substitute; Committee Substitute  
read first time.

\_\_\_\_\_ Ordered not printed. \_\_\_\_\_

\_\_\_\_\_ Regular order of business suspended by

(unanimous consent.

(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ To permit consideration, reading and passage, Senate and Constitutional Rules  
suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

MAY 25 1973 Read second time MAY 25 1973 passed to third reading.

\_\_\_\_\_ Caption ordered amended to conform to body of bill.

MAY 25 1973 Senate and Constitutional 3-Day Rules suspended by vote of  
30 yeas, 1 nays to place bill on third reading and final passage.

MAY 25 1973 Read third time and passed by ~~(a viva voce vote.~~  
(30 yeas, 1 nays.

OTHER ACTION:

\*MAY 23 1973  
RE-REFERRED TO COMMITTEE ON  
ADMINISTRATION

*Charles Schnabel*

Secretary of the Senate

MAY 25 1973

RETURNED FROM SENATE

*Dorothy Hallman*

Chief Clerk, House of Representatives

MAY 25 1973 Returned to HOUSE

MAY 25 1973

SENT TO ENROLLING CLERK

By: Nabers

C  
H.B. No. 103

A BILL TO BE ENTITLED

AN ACT

amending Title 1 of the Family Code as follows: amending Section 1.01, relating to the persons who may acquire a marriage license; amending Section 1.02, relating to application for a marriage license; . . . etc.; and declaring an emergency.

- 1-16-73 Filed.
- 1-18-73 Read first time and referred to Committee on Judiciary.
- 5-11-73 Reported favorably as amended, sent to printer.
- 5-12-73 Printed, distributed and referred to Committee on Calendars at 4:45 p.m.
- 5-19-73 Read second time, amended and ordered engrossed by a non-record vote.
- 5-19-73 Read third time and passed by the following vote:  
Yeas 130, Nays 0 and 3 present not voting.

Dorothy Hallman  
Chief Clerk, H. of R.

- 5-19-73 Sent to Engrossing Clerk.
- 5-19-73 Engrossed.

Orea Suppin  
Engrossing Clerk, H. of R.

MAY 21 1973

RETURNED FROM ENGROSSING CLERK

H.B. No. 103

By Nabers

A BILL TO BE ENTITLED  
AN ACT

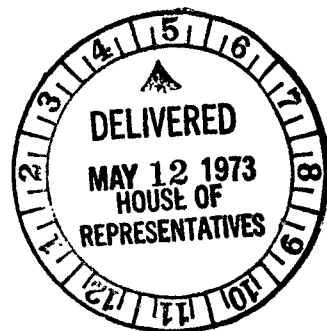
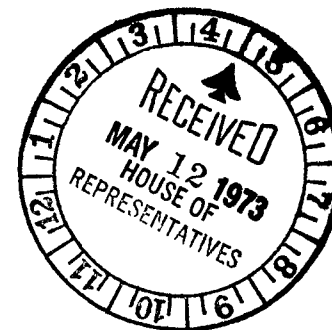
amending Title 1 of the Family Code Bill; . . . ; and declaring  
an emergency.

FILED JAN 16 1973

READ 1ST TIME  
AND REFERRED TO COMMITTEE ON  
Judiciary  
JAN 18 1973  
Chief Clerk, House of Representatives

MAY 11 1973 REPORTED FAVORABLY AS AMENDED SENT TO PRINTER

PRINTED, DISTRIBUTED AND  
REFERRED TO COMMITTEE ON  
CALENDARS 445 P.M. MAY 12 1973  
(Time) (Date)



MAY 19 1973  
READ SECOND  
TIME Amended AND  
ORDERED Engrossed by  
Grow record vote

Dorothy Hallman  
Chief Clerk, House of Representatives

MAY 19 1973  
Read third time  
and Passed  
by following vote yeas 130  
nays 0 - 3 Present not voting  
Dorothy Hallman  
Chief Clerk  
HOUSE OF REPRESENTATIVES

MAY 19 1973 SENT TO ENGROSSING CLERK